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 Superior Court of California,  
 County of San Diego  
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7 *Attorneys for Plaintiffs*

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
**COUNTY OF SAN DIEGO**

9 DAVID MARKS and TAGUI GALSTIAN,  
 10 each individually and on behalf of all others  
 similarly situated,

Case No. 24CU012855N

11 *Plaintiffs,*

**CLASS ACTION COMPLAINT**

12 vs.

Jury Trial Demanded

13 UNITED PARKS & RESORTS, INC.,

*General Jurisdiction - Civil*

14 *Defendant.*

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1 **I. Introduction.**

2 1. Defendant United Parks & Resorts, Inc. is a theme park company. It sells tickets  
3 to theme parks, including California theme parks SeaWorld and Sesame Place. To sell these  
4 tickets, Defendant uses unfair and illegal tactics to trick and manipulate consumers into  
5 purchasing tickets and paying more than they otherwise would. These include using (1) fake  
6 sales, and (2) hidden fees.

7 2. Defendant uses fake sales to sell its Sea World and Sesame Place tickets.  
8 Advertised “sale” prices are important to consumers. Consumers are more likely to purchase an  
9 item if they know that they are getting a good deal. Further, if consumers think that a sale will  
10 end soon, they are likely to buy now, rather than wait, comparison shop, and buy something else.

11 3. While there is nothing wrong with a legitimate sale, a fake one—that is, one with  
12 made-up regular prices, made-up discounts, and made-up expirations—is deceptive and illegal.  
13 *See, e.g.* Cal. Bus. & Prof. Code § 17500, § 17501 (“[n]o price shall be advertised as a former  
14 price ... unless the alleged former price was the prevailing market price ... within three months  
15 next immediately preceding” the advertising); Cal. Civ. Code § 1770(a)(9), (13) (prohibiting  
16 “false or misleading statements of fact concerning reasons for, existence of, or amounts of price  
17 reductions”); 16 C.F.R. § 233.1.

18 4. But Defendant does just that. Defendant advertises its tickets using purported  
19 regular prices and advertises purported “Limited-Time” discounts from those regular prices.  
20 Defendant uses countdown clocks to represent that its sales are on the verge of ending. But  
21 these discounts are *always* available. As a result, everything about Defendant’s price and  
22 purported discount advertising is false. The regular prices Defendant advertises are not actually  
23 Defendant’s regular prices, because Defendant’s tickets are *always* available for less than that.  
24 The purported discounts Defendant advertises are not the true discounts the customer is  
25 receiving, and are often not discounts at all.

26 5. Defendant also used hidden fees to sell its tickets. It advertised one price, only to  
27 later disclose a higher, different price later in the checkout process. Such fees are deceptive and  
28 unfair because it “interferes with consumers’ ability to price-compare and manipulates them into

1 paying fees that are either hidden entirely or not presented until late in the transaction, after the  
2 consumer already has spent significant time selecting and finalizing a product or service plan to  
3 purchase.”<sup>1,2</sup> This is unfair, and illegal under California law.

4 **II. Parties.**

5 6. Plaintiff David Marks is domiciled in Camarillo, California.

6 7. Plaintiff Tagui Galstian is domiciled in Santa Clarita, California.

7 8. The proposed class includes citizens of every state.

8 9. Defendant United Parks & Resorts, Inc. is a Delaware limited liability company  
9 with its principal place of business in Orlando, Florida.

10 10. Defendant operates the SeaWorld and Sesame Place theme parks, and sells tickets  
11 for both theme parks.

12 **III. Jurisdiction and venue.**

13 11. The Court has personal jurisdiction over Defendant because Defendant does  
14 business in this county. Defendant operates and sells tickets for Sea World and Sesame Place,  
15 which are both located in this county.

16 12. Venue is proper under because Defendant does business in this county, and a  
17 substantial part of Defendant’s conduct giving rise to the claims occurred in this District.

18 **IV. Defendant’s Fake Sales.**

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

20 13. Defendant sells tickets to Sesame Place and Sea World (the “Products”) directly  
21 to consumers, including on its websites, [www.seaworld.com](http://www.seaworld.com) and [www.sesameplace.com](http://www.sesameplace.com).

22 14. Through its advertisements and statements, Defendant creates the false impression  
23 that tickets to both Sesame Place and Sea World have regular prices that are higher than they  
24 truly are.

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27 <sup>1</sup> *Bringing Dark Pattern to Light*, FTC Staff Report (September 2022), available at  
[https://www.ftc.gov/system/files/ftc\\_gov/pdf/P214800%20Dark%20Patterns%20Report%209.14.2022%20-%20FINAL.pdf](https://www.ftc.gov/system/files/ftc_gov/pdf/P214800%20Dark%20Patterns%20Report%209.14.2022%20-%20FINAL.pdf)

28 <sup>2</sup> Defendant appears to have changed its practice of hidden fees on or around July 1,  
2024.

1           15. For example, at any given time, on its website, Defendant advertises steep  
2 discounts on its Products. These discounts always offer “X%” or “\$X” off the regular prices  
3 Defendant advertises. Even though in truth these discounts run in perpetuity, Defendant  
4 prominently claims they are “LIMITED-TIME” or “OFFER ENDS.” And it advertises these  
5 discounts extensively: on attention-grabbing banners on the homepage of its websites; on large  
6 banner images on its ticket listing pages; next to ticket listings in colored font; in red  
7 strikethrough markings on ticket prices. Example screenshots are provided on the following  
8 pages for both SeaWorld and Sesame Place, respectively:

9 ***Sea World:***



16 *Captured on April 10, 2024*



24 *Captured on July 1, 2024*

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Captured on August 2, 2024

Captured April 15, 2024

1 *Sesame Place:*

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*Captured on May 26, 2023*



*Captured on June 10, 2023*



*Captured on August 2, 2023*



*Captured on September 24, 2023*

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Captured on November 1, 2023



Captured on January 27, 2024



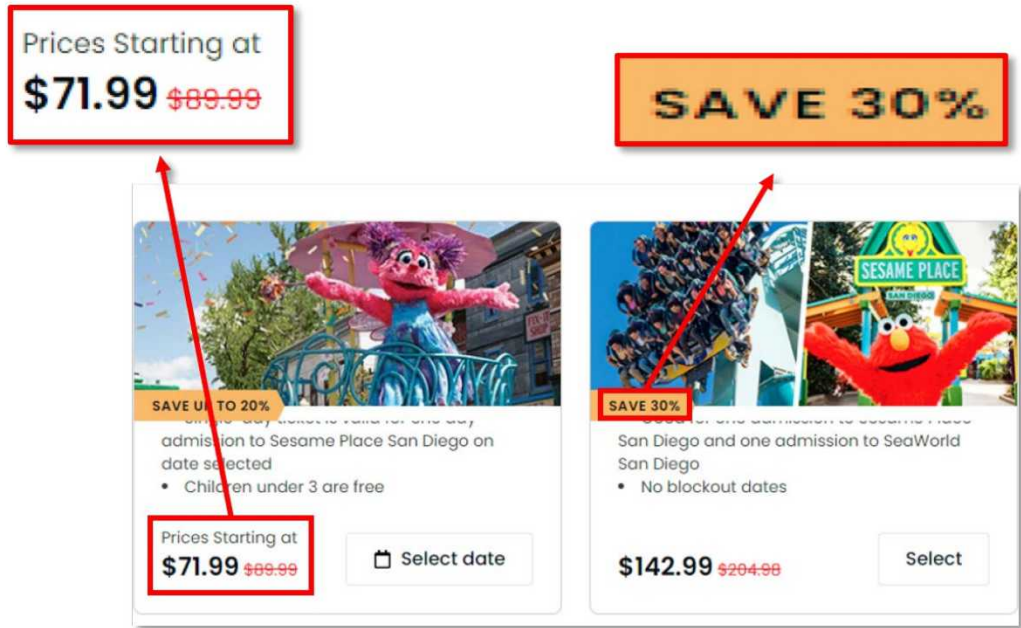
Captured on May 15, 2024



Captured on June 8, 2024



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Captured May 15, 2024

16. Defendant represents that these discounts would only be available for a limited time, but in reality, they continue indefinitely.

17. For example, on July 5, 2024, SeaWorld advertised a purportedly time-limited “best sale of the year,” “offer end[ing] July 7.”



Captured July 5, 2024

18. However, on July 8, 2024, the day that the time-limited sale was supposed to have ended, Defendant advertised an even larger sale with a new expiration date, July 14, 2024.

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Captured July 8, 2024

19. Similarly, on April 18, 2024, Sesame Place advertised a purportedly time-limited “offer end[ing] Apr. 21.”



Captured April 14, 2024

20. However, on April 23, 2024, after the time-limited sale was supposed to have ended, Defendant advertised an even larger sale with a new expiration date, April 28, 2024.



Captured April 23, 2024

21. To confirm that Defendant always offers discounts off of purported regular prices, Plaintiffs’ counsel performed an investigation of Defendant’s advertising practices using

1 the Internet Archive’s Wayback Machine (available at [www.archive.org](http://www.archive.org)).<sup>3</sup> Defendant’s sales  
2 have persisted continuously since at least February 11, 2021.

3       22. Using these tactics, Defendant leads reasonable consumers to believe that they  
4 will get a discount on the tickets they are purchasing if they purchase during the “limited-time”  
5 promotion “end[ing] soon.” In other words, it leads reasonable consumers to believe that if they  
6 buy now, they will get a ticket worth X at a discounted, lower price Y. This creates a sense of  
7 urgency: buy now, and you will receive something worth more than you pay for it; wait, and you  
8 will pay more for the same thing later.

9       23. Based on Defendant’s advertisements, reasonable consumers reasonably believe  
10 that the regular prices Defendant advertises are Defendant’s former prices (that is, the price at  
11 which the tickets were actually offered for sale before the limited-time offer went into effect).  
12 In other words, reasonable consumers reasonably believe that the regular prices Defendant  
13 advertises represent the amount that consumers formerly had to pay for Defendant’s tickets,  
14 before the limited-time sale began. Said differently, reasonable consumers reasonably believe  
15 that, prior to the supposedly time-limited sale, consumers had to pay the regular price to get the  
16 tickets and did not have the opportunity to get a discount from that regular price.

17       24. Reasonable consumers also reasonably believe that the regular prices Defendant  
18 advertises represent the true market value of the tickets, and are the prevailing prices for those  
19 tickets; and that they are receiving reductions from those regular prices in the amounts  
20 advertised. In truth, however, Defendant *always* offers discounts off the purportedly regular  
21 prices it advertises. As a result, everything about Defendant’s price and purported discount  
22 advertising is false. The regular prices Defendant advertises are not actually Defendant’s  
23 regular or former prices, or the prevailing prices for the tickets Defendant sells, and do not  
24 represent the true market value for the tickets, because Defendant’s tickets are *always* available  
25 for less than that, and customers did not have to formerly pay that amount to get those tickets.  
26 The purported discounts Defendant advertises are not the true discount the customer is

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28       <sup>3</sup> The Internet Archive, available at [archive.org](http://archive.org), is a library that archives web pages.  
<https://archive.org/about/>

1 receiving, and are often not a discount at all. Nor are the purported discounts “LIMITED-  
2 TIME” or “END[ING] SOON”—quite the opposite, they are always available.

3 **B. Defendant’s advertisements are unfair, deceptive, and unlawful.**

4 25. Section 17500 of California’s False Advertising Law prohibits businesses from  
5 making statements they know or should know to be untrue or misleading. Cal. Bus. & Prof.  
6 Code § 17500. This includes statements falsely suggesting that a product is on sale, when it  
7 actually is not.

8 26. Moreover, section 17501 of California’s False Advertising Law specifically  
9 provides that “[n]o price shall be advertised as a former price ... unless the alleged former price  
10 was the prevailing market price ... within three months next immediately preceding” the  
11 advertising. Cal. Bus. & Prof. Code § 17501.

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

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

23 29. And finally, California’s unfair competition law bans unlawful, unfair, and  
24 deceptive business practices. *See* Cal. Bus. & Prof. Code § 17200.

25 30. Here, as described in detail above, Defendant makes untrue and misleading  
26 statements about its ticket prices. Defendant advertises regular prices that are not its true regular  
27 prices, or its former prices, and were not the prevailing market price in the three months  
28 immediately preceding the advertisement. In addition, Defendant advertised goods or services

1 with the intent not to sell them as advertised, for example, by advertising tickets having certain  
2 former prices and/or market values without the intent to sell tickets having those former prices  
3 and/or market values. Defendant made false or misleading statements of fact concerning the  
4 reasons for, existence of, and amounts of price reductions, including the existence of steep  
5 discounts, and the amounts of price reductions resulting from those discounts. And Defendant  
6 engaged in unlawful, unfair, and deceptive business practices.

7 **C. Defendant’s advertisements harm consumers.**

8 31. Based on Defendant’s advertisements, reasonable consumers would expect that  
9 the listed regular prices are the regular prices at which Defendant usually sells its tickets; that  
10 these are former prices that Defendant sold its tickets at before the time-limited discount was  
11 introduced.

12 32. Reasonable consumers would also expect that, if they purchase during the sale,  
13 they will receive a ticket whose regular price and/or market value is the advertised regular price  
14 and that they will receive the advertised discount from the regular purchase price.

15 33. In addition, consumers are more likely to buy the ticket if they believe that the  
16 ticket is on sale and that they are getting a ticket with a higher regular price and/or market value  
17 at a substantial discount.

18 34. Consumers that are presented with discounts are substantially more likely to  
19 make the purchase. “Nearly two-thirds of consumers surveyed admitted that a promotion or a  
20 coupon often closes the deal, if they are wavering or are undecided on making a purchase.”<sup>4</sup>  
21 And, “two-thirds of consumers have made a purchase they weren’t originally planning to make  
22 solely based on finding a coupon or discount,” while “80% [of consumers] said they feel  
23 encouraged to make a first-time purchase with a brand that is new to them if they found an offer  
24 or discount.”<sup>5</sup>

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27 <sup>4</sup> <https://www.invespro.com/blog/how-discounts-affect-online-consumer-buying-behavior/>.

28 <sup>5</sup> RetailMeNot Survey: Deals and Promotional Offers Drive Incremental Purchases Online, Especially Among Millennial Buyers (prnewswire.com).

1 35. Similarly, when consumers believe that an offer is expiring soon, the sense of  
2 urgency makes them more likely to buy a product.<sup>6</sup>

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

10 **D. Plaintiffs were misled by Defendant’s misrepresentations.**

11 **Mr. Marks**

12 37. On April 19, 2024, Defendant’s SeaWorld website advertised a “Spring  
13 Spectacular Sale” that was “end[ing] April 21” with purported savings of “up to 50% on tickets,  
14 fun cards & passes” and “up to 20% on passes”:



24 *Captured on April 19, 2024*

27 <sup>6</sup> <https://cxl.com/blog/creating-urgency/> (addition of a countdown timer increased  
28 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 38. As shown above, the sale was advertised as “end[ing] April 21.” In reality, the  
2 exact same sale continued on. For example, on April 26, 2024, Defendant’s website advertised  
3 the same sale, with a new countdown timer:  
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13 **HURRY, OFFER ENDS APRIL 28**

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15 *Captured on April 26, 2024*

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17 39. Pursuant to the advertised sale, on both days, and for weeks before and after,  
18 Defendant advertised the same purported discounts on its tickets. For example, Defendant  
19 advertised virtually the same discounts for their SeaWorld tickets:  
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25 *Captured on March 8, 2024*



*Captured on April 10, 2024*

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*Captured on May 29, 2024*



*Captured on June 26, 2024*



*Captured on July 5, 2024*



*Captured on July 15, 2024*

40. On April 19, 2024, Mr. Marks purchased two SeaWorld San Diego single-day tickets through Defendant’s website, [www.seaworld.com](http://www.seaworld.com). He made this purchase while living in Camarillo, California. When Mr. Marks made his purchase, Defendant’s website represented that SeaWorld San Diego Single-Day Tickets had a regular price, but was on sale for a discounted price of \$89.99. Defendant represented that the tickets had a certain regular price, and that Mr. Marks was receiving a substantial discount for the tickets that he purchased.

41. Mr. Marks read and relied on Defendant’s representations on the website, specifically that the tickets were being offered at a discount for a limited time, that they had higher regular and usual prices, and that he would be receiving a price reduction by buying now. Based on Defendant’s representations described and shown above, Mr. Marks reasonably understood that Defendant regularly (and before the promotion Defendant was advertising) sold the tickets he was purchasing at the published regular price, that this regular price was the market value of the tickets that he was buying, that he was receiving the advertised discount as compared to the regular price, and that advertised discount was only available for a limited time (during the limited time promotion). He would not have made the purchase if he had known



1 that the tickets were not discounted as advertised, and that he was not receiving the advertised  
2 discount.

3 42. In reality, as explained above, SeaWorld’s tickets, including the tickets that Mr.  
4 Marks purchased, are *always* available at a discounted price off of the purported regular prices.<sup>7</sup>  
5 In other words, Defendant did not regularly sell the tickets Mr. Marks purchased at the  
6 purported regular prices, and the tickets were not discounted as advertised. Plus, the sale was  
7 not limited-time—Defendant’s tickets are always on sale.

8 ***Ms. Galstian***

9 43. On July 29, 2023, Ms. Galstian purchased five Sesame Place San Diego single-  
10 day tickets through Defendant’s website, [www.sesameplace.com](http://www.sesameplace.com). She made this purchase while  
11 living in Santa Clarita, California. When Ms. Galstian made her purchase, Defendant’s website  
12 represented that the tickets had a regular price, but were on sale for a discounted price of \$67.00.  
13 Defendant represented that the tickets had a certain regular price, and that Ms. Galstian was  
14 receiving a substantial discount for the tickets that she purchased.

15 44. Ms. Galstian read and relied on Defendant’s representations on the website,  
16 specifically that the tickets were being offered at a discount for a limited time, that they had  
17 higher regular and usual prices, and that she would be receiving a price reduction by buying  
18 now. Based on Defendant’s representations described and shown above, Ms. Galstian  
19 reasonably understood that Defendant regularly (and before the promotion Defendant was  
20 advertising) sold the tickets she was purchasing at the published regular price, that this regular  
21 price was the market value of the tickets that she was buying, that she was receiving the  
22 advertised discount as compared to the regular price, and that advertised discount was only  
23 available for a limited time (during the limited time promotion). She would not have made the  
24 purchase if she had known that the tickets were not discounted as advertised, and that she was  
25 not receiving the advertised discount.

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28 <sup>7</sup> A limited set of Sea World tickets, passes, and packages are sometimes excluded from Defendant’s sales. The Single Day Tickets purchased by Mr. Marks, however, are continuously on sale.

1           45. In reality, as explained above, Sesame Place’s tickets, including the tickets that  
2 Ms. Galstian purchased, are *always* available at a discounted price off of the purported regular  
3 prices.<sup>8</sup> In other words, Defendant did not regularly sell the tickets Ms. Galstian purchased at  
4 the purported regular prices, and the tickets were not discounted as advertised. Plus, the sale  
5 was not limited-time—Defendant’s tickets are always on sale.

6           **E. Defendant breached its contract with and warranties to Mr. Marks, Ms.**  
7           **Galstian, and the putative class.**

8           46. When Mr. Marks and other members of the putative class purchased and paid for  
9 the SeaWorld tickets that they bought as described above, they accepted offers that Defendant  
10 made, and thus, a contract was formed each time that they made purchases. Each offer was to  
11 provide tickets having a particular listed regular price and market value, and to provide those  
12 tickets at the discounted price advertised on the website.

13           47. When Ms. Galstian and other members of the putative class purchased and paid  
14 for the Sesame Place tickets that they bought as described above, they accepted offers that  
15 Defendant made, and thus, a contract was formed each time that they made purchases. Each  
16 offer was to provide tickets having a particular listed regular price and market value, and to  
17 provide those tickets at the discounted price advertised on the website.

18           48. Defendant’s website and email confirmations list the market value of the tickets  
19 that Defendant promised to provide (which, for Mr. Marks and Ms. Galstian, are listed above).  
20 Defendant agreed to provide a discount equal to the difference between the regular prices, and  
21 the prices paid by Mr. Marks, Ms. Galstian, and putative class members. Defendant also  
22 warranted that the regular price and market value of the tickets Mr. Marks and Ms. Galstian  
23 purchased were the advertised list prices and warranted that Mr. Marks and Ms. Galstian were  
24 receiving a specific discount on those tickets.

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28           <sup>8</sup> A limited set of Sesame Place’s ticket packages are sometimes excluded from Defendant’s sales. The Single Day Tickets purchased by Ms. Galstian, however, are continuously on sale.

1           49.     The regular price and market value of the tickets Mr. Marks, Ms. Galstian, and  
2 putative class members would receive, and the amount of the discount they would be provided  
3 off the regular price of those tickets, were specific and material terms of the contract. They  
4 were also affirmations of fact about the tickets and a promise relating to the tickets.

5           50.     Mr. Marks, Ms. Galstian, and other members of the putative class performed  
6 their obligations under the contract by paying for the tickets they purchased.

7           51.     Defendant breached its contract by failing to provide Mr. Marks, Ms. Galstian,  
8 and other members of the putative class with tickets that have a regular price and market value  
9 equal to the regular price displayed, and by failing to provide the discount it promised.  
10 Defendants also breached warranties for the same reasons.

11 **V.     Defendant’s Hidden Fees.**

12           52.     In addition to using fake sales, Defendant also uses hidden fees to sell its tickets.

13 **A.     Drip pricing is unfair and illegal.**

14           53.     “As more and more commerce has moved online, so too have manipulative  
15 design practices—termed ‘dark patterns’” that “trick or manipulate users into making choices  
16 they would not otherwise have made and that may cause harm.”<sup>9</sup>

17           54.     One example of a dark pattern is drip pricing, in which companies “advertise only  
18 part of a product’s total price to lure in consumers, and do not mention other mandatory charges  
19 until late in the buying process.”<sup>10</sup> In the ticketing space, companies advertise one price for a  
20 ticket, and then load the purchase up with additional fees at the end of the checkout process. The  
21 goal of this is to conceal the true cost of the ticket and prevent comparison shopping. The  
22 consumer selects and decides to purchase the ticket based on a lower advertised price, but ends  
23 up paying more because of junk fees that are tacked on at the end.

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27           <sup>9</sup> *Bringing Dark Pattern to Light*, FTC Staff Report (September 2022), available at  
28 [https://www.ftc.gov/system/files/ftc\\_gov/pdf/P214800%20Dark%20Patterns%20Report%209.14.2022%20-%20FINAL.pdf](https://www.ftc.gov/system/files/ftc_gov/pdf/P214800%20Dark%20Patterns%20Report%209.14.2022%20-%20FINAL.pdf)

<sup>10</sup> *Id.*

1           55. The Federal Trade Commission has stated that junk fees are “deceptive or unfair,”  
2 “because they are disclosed only at a later stage in the consumer’s purchasing process.”<sup>11</sup> “Drip  
3 pricing interferes with consumers’ ability to price-compare and manipulates them into paying  
4 fees that are either hidden entirely or not presented until late in the transaction, after the  
5 consumer already has spent significant time selecting and finalizing a product or service plan to  
6 purchase.”<sup>12</sup> By then, consumers have already committed to the purchase.

7           56. Drip pricing costs consumers a lot of money. For example, when buying tickets,  
8 consumers rely on the initial price, spend more money, and make purchases that they otherwise  
9 would not have made.<sup>13</sup>

10           57. Drip pricing also harms consumers because it can “weaken competition by  
11 making it harder for consumers to price-compare across sellers. An honest business that sets  
12 forth the total price of its product at the outset will be at a significant disadvantage when  
13 compared to a seller that advertises an artificially low price to draw consumers in, then adds  
14 mandatory charges late in the transaction.”<sup>14</sup>

15           58. Thus, the Federal Trade Commission has warned that “companies should include  
16 any unavoidable and mandatory fees in the upfront, advertised price.” “Failure to do so has the  
17 potential to deceive consumers in violation of the FTC Act.”<sup>15</sup>

18           59. Because drip pricing is unfair and deceptive, it is also illegal under the FTC Act.  
19 Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), prohibits “unfair or deceptive acts or practices in  
20 or affecting commerce.” And, the FTC has “federal rule-making authority to issue industry-wide  
21 regulations (Rules and Guides) to deal with common unfair or deceptive practices and unfair  
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25 <sup>11</sup> <https://www.federalregister.gov/documents/2022/11/08/2022-24326/unfair-or-deceptive-fees-trade-regulation-rule-commission-matter-no-r207011>

26 <sup>12</sup> *Bringing Dark Patterns to Light*, FTC Staff Report, at 9 (September 2022), available at  
27 [https://www.ftc.gov/system/files/ftc\\_gov/pdf/P214800%20Dark%20Patterns%20Report%209.14.2022%20-%20FINAL.pdf](https://www.ftc.gov/system/files/ftc_gov/pdf/P214800%20Dark%20Patterns%20Report%209.14.2022%20-%20FINAL.pdf)

28 <sup>13</sup> *Id.* at 9.

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

1 methods of competition.”<sup>16</sup> Because drip pricing is unfair and deceptive in violation of the FTC  
2 Act, the FTC has proposed specific rules banning junk fees under its rulemaking authority.<sup>17</sup>

3 60. Drip pricing is also illegal under California law, and has been for years.

4 61. Starting on July 1, 2024, drip pricing is illegal under the California Legal  
5 Remedies Act. SB 478 makes drip pricing—namely, “[a]dvertising, displaying, or offering a  
6 price for a good or service that does not include all mandatory fees or charges” other than taxes  
7 and shipping—a violation of California’s Consumer Legal Remedies Act. By making drip  
8 pricing a violation of the CLRA, SB 478 made punitive damages, attorneys fees, and statutory  
9 damages available to consumers who sue companies for this unfair and illegal practice.

10 62. But, even before July 1, 2024, drip pricing was already illegal under California’s  
11 other consumer protection statutes. As SB 478 expressly states, “This practice, like other forms  
12 of bait and switch advertising, is prohibited by existing statutes, including the Unfair  
13 Competition Law (Chapter 5 (commencing with Section 17200) of Part 2 of Division 7 of the  
14 Business and Professions Code) and the False Advertising Law (Chapter 1 (commencing with  
15 Section 17500) of Part 3 of Division 7 of the Business and Professions Code).”<sup>18</sup> Thus, drip  
16 pricing has been illegal under California’s other consumer protection statute for years.

17 63. Up until about July 1, 2024, Defendant used drip pricing in its ticket sales.<sup>19</sup>  
18 Plaintiffs, who purchased tickets before July 1, 2024, bring this lawsuit to obtain relief for  
19 consumers who, like Plaintiffs, purchased tickets from Defendant with hidden fees.

20 **B. SeaWorld’s checkout process.**

21 64. Before about July 1, 2024, Defendant used drip pricing, and hid the true price of  
22 the ticket until purchase was almost complete. For each of SeaWorld’s tickets, Defendant used  
23 drip pricing and added a mandatory fee at the end of the checkout process. The example below  
24 is representative of SeaWorld’s checkout process until about July 1, 2024, when it changed its

25 \_\_\_\_\_  
26 <sup>16</sup> <https://www.ftc.gov/enforcement/rulemaking>

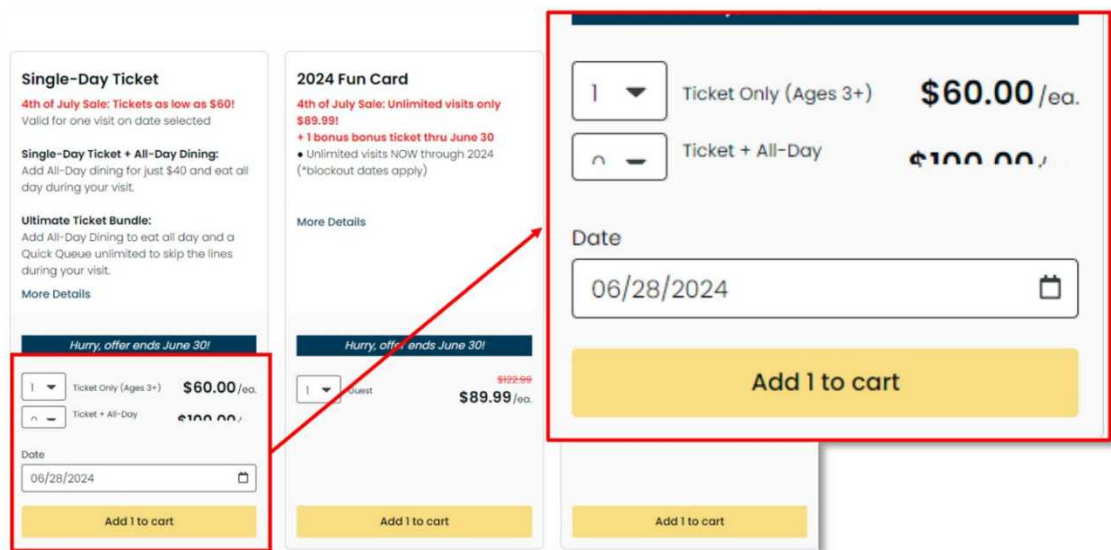
27 <sup>17</sup> <https://www.federalregister.gov/documents/2023/11/09/2023-24234/trade-regulation-rule-on-unfair-or-deceptive-fees>

28 <sup>18</sup> Consumer Legal Remedies Act: advertisements., CA S.B. 478, 2023.

<sup>19</sup> SeaWorld and Sesame Place changed their policies on or around July 1, 2024, presumably to avoid additional liability under the CLRA.

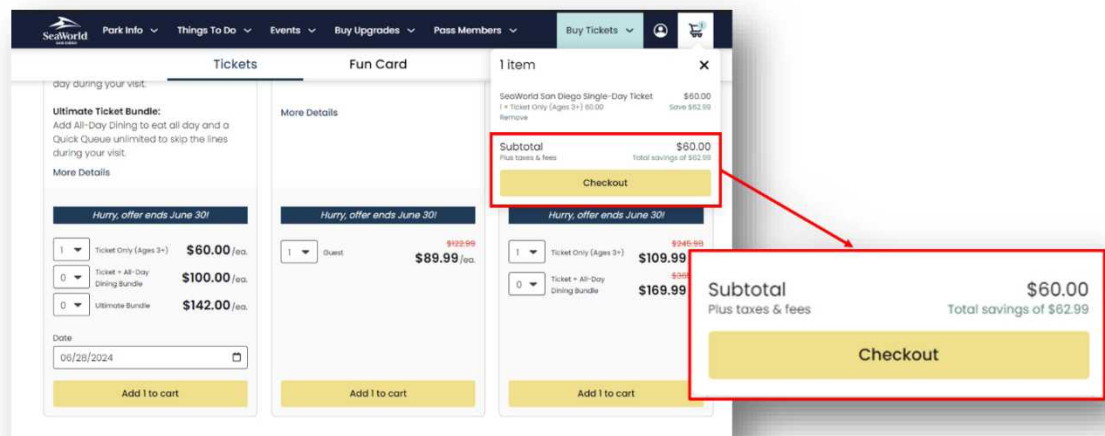
1 practices. In all relevant respects, throughout the entire statute of limitations period, the online  
2 ticket sales for SeaWorld were substantially similar.

3 65. When a consumer visited Defendant’s website, [www.seaworld.com](http://www.seaworld.com), the  
4 homepage advertised ticket packages for its theme park. After choosing to book a ticket,  
5 consumers were then presented with a calendar of available dates with specific ticket prices for  
6 each date. In the example below, the total for a ticket on June 28, 2024 is represented as \$60.



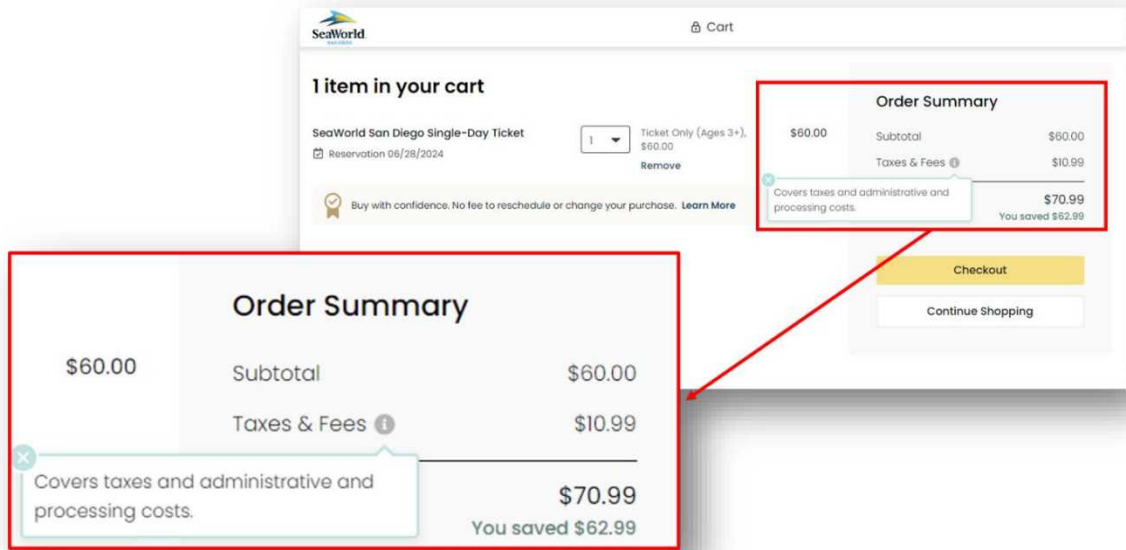
Captured June 26, 2024

17 66. After selecting a date, the ticket was added to the consumer’s cart. In the example  
18 below, the ticket price remained \$60, with “Total savings of \$62.99.”



Captured June 26, 2024

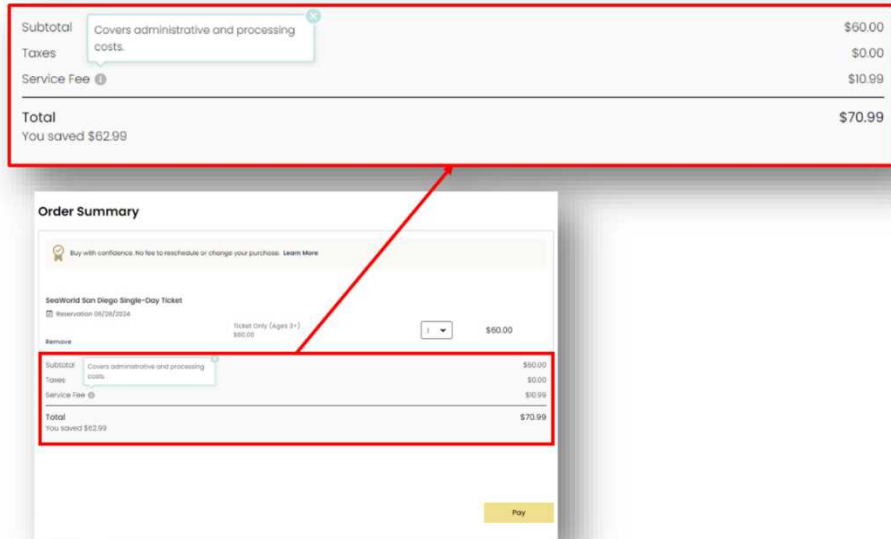
1           67. But several screens later, the ticket price changed. Several screens into the  
2 checkout process, Defendant’s website reflected a new charge of a “Taxes & Fees” for \$10.99.  
3 The cost of this fee was disclosed for the first time in the checkout process at the end of  
4 checkout, in small font. This fee changed the ticket price from the previously advertised \$60 to  
5 an increased price of \$70.99.



Captured June 26, 2024

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1 68. In the final page of checkout, consumers were presented with an order summary  
2 with the total cost. In the example below, the breakdown of “Taxes & Fees” revealed a \$10.99  
3 “Service Fee,” and \$0.00 in taxes. That is, the entire “Taxes and Fees” in the example below  
4 was just a mandatory service fee tacked on by Defendant.



Captured June 26, 2024

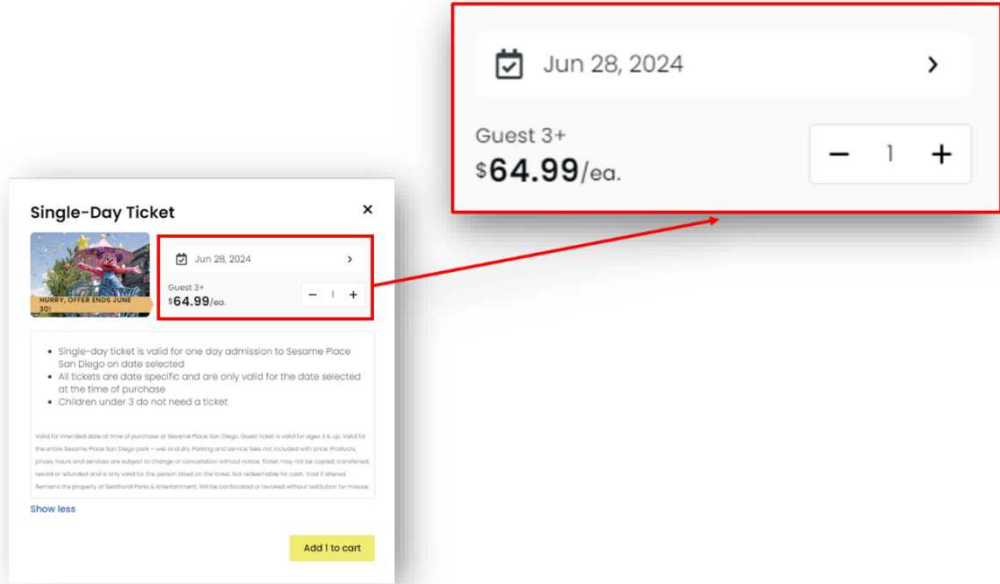
16 69. Defendant did not disclose the cost of this mandatory charge until several pages  
17 into the checkout process. This was after the consumer had invested a significant amount of time  
18 selecting and finalizing their ticket specifications, and had already decided to purchase the  
19 tickets. Only then, were they finally informed of an additional “Service Fee” of \$10.99 in the  
20 final subtotal. Because Defendant waited until the end of the checkout process to disclose the  
21 true price, it was difficult for consumers to accurately compare ticket prices across other theme  
22 parks. Not only does this frustrate comparison shopping, but this drip pricing also impeded  
23 competition and led consumers to pay more for their ticket than they otherwise would have.

24 **C. Sesame Place’s checkout process.**

25 70. When a consumer visited Defendant’s website, [www.sesameplace.com](http://www.sesameplace.com), the  
26 homepage advertised ticket packages and special events for its theme park. After choosing to  
27 book a ticket, consumers were then presented with a calendar of available dates with specific  
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1 ticket prices for each date. In the example below, the total for a ticket on June 28, 2024 is  
2 represented as \$64.99.



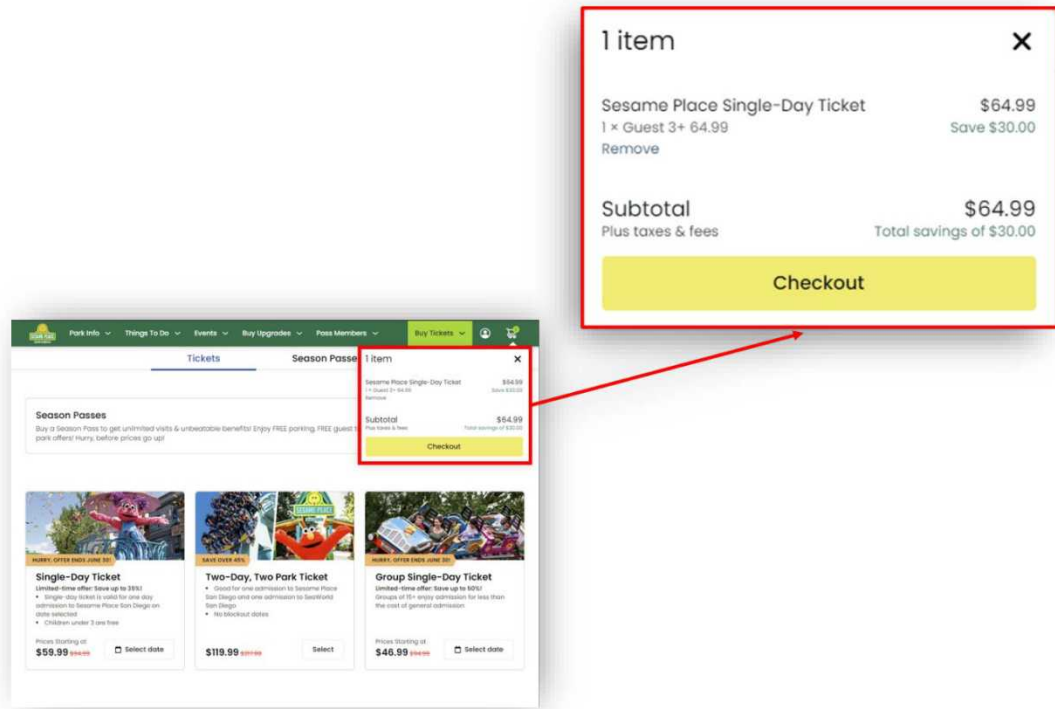
*Captured June 26, 2024*

15 71. After selecting a date, the ticket was added to the consumer’s cart. In the example  
16 below, the ticket price remained \$64.99.

17 72. In small grey font, in a place that is likely to be missed, Defendant’s website  
18 stated “Plus taxes & fees” and “Total savings of \$30.00.” But it fails to disclose how much the  
19 taxes or fees are.

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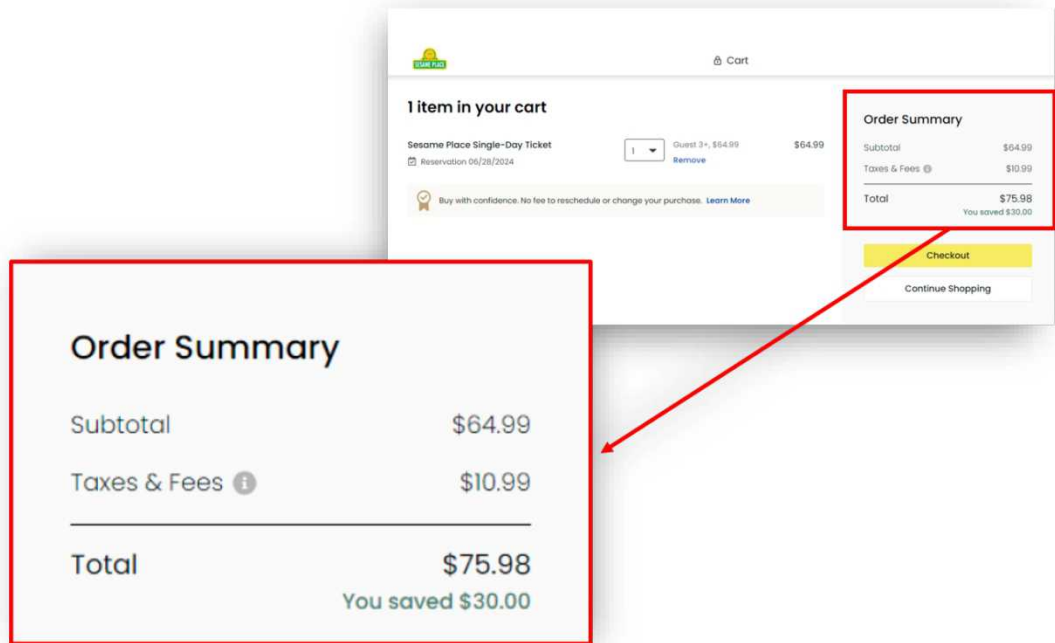
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Captured June 26, 2024

73. But several screens later, the ticket price changed. Several screens into the checkout process, Defendant’s website reflected a new charge of a “Taxes & Fees” for \$10.99. The cost of this fee was disclosed for the first time in the checkout process at the end of checkout, in small grey font. This fee changed the ticket price from the previously advertised \$64.99 to an increased price of \$75.98.

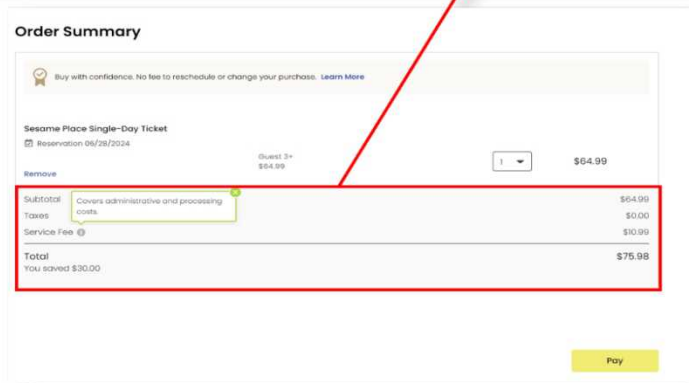
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Captured June 26, 2024

74. In the final page of checkout, consumers were presented with an order summary with the total cost. In the example below, the breakdown of “Taxes & Fees” revealed a \$10.99 “Service Fee,” and \$0.00 in taxes. That is, the entire fee was just a mandatory service fee tacked on by Defendant.

Subtotal	Covers administrative and processing costs.	\$64.99
Taxes		\$0.00
Service Fee ⓘ		\$10.99
<b>Total</b>		<b>\$75.98</b>
You saved \$30.00		



Captured June 26, 2024

1           75. Defendant did not disclose the cost of this mandatory charge until several pages  
2 into the checkout process. This was after the consumer had invested a significant amount of time  
3 selecting and finalizing their ticket specifications, and had already decided to purchase the  
4 tickets. Only then, were they finally informed of an additional “Service Fee” of \$10.99 in the  
5 final subtotal. Because Defendant waited until the end of the checkout process to disclose the  
6 true price, it was difficult for consumers to accurately compare ticket prices across other theme  
7 parks. Not only does this frustrate comparison shopping, but this drip pricing also impeded  
8 competition and led consumers to pay more for their ticket than they otherwise would have.

9           **D. Plaintiffs were harmed by Defendant’s hidden fees.**

10           76. As explained in greater detail above, on April 19, 2024, Mr. Marks purchased two  
11 SeaWorld San Diego single-day tickets, three Dine with Orcas tickets, and one parking ticket  
12 through Defendant’s website, [www.seaworld.com](http://www.seaworld.com).

13           77. During the checkout process, Defendant represented that the total of these tickets  
14 would cost \$312.96. Mr. Marks believed that the total of these tickets would cost \$312.96. But  
15 at the end of the checkout, Defendant added a “Service Fee” of \$22.49, making the actual ticket  
16 price \$341.65 (including \$6.20 in tax), not \$312.97, as Defendant had previously represented.

17           78. Mr. Marks was harmed by paying Defendant’s illegal and unfair junk fee. If  
18 Defendant had not used hidden fees, Plaintiff would have paid less for the tickets.

19           79. As explained in greater detail above, on July 29, 2023, Ms. Galstian purchased  
20 five Sesame Place San Diego single-day tickets through Defendant’s website,  
21 [www.sesameplace.com](http://www.sesameplace.com).

22           80. During the checkout process, Defendant represented that the total of these tickets  
23 would cost \$339.95. Ms. Galstian believed that the total of these tickets would cost \$339.95. But  
24 at the end of the checkout, Defendant added a “Service Fee” of \$16.99, making the actual ticket  
25 price \$356.94, not \$339.95, as Defendant had previously represented.

26           81. Ms. Galstian was harmed by paying Defendant’s illegal and unfair junk fee. If  
27 Defendant had not used hidden fees, Plaintiff would have paid less for the tickets.

28

1           **E.     No adequate remedy at law.**

2           82.     Plaintiffs seek damages and, in the alternative, restitution. Plaintiffs are permitted  
3 to seek equitable remedies in the alternative because they have no adequate remedy at law.

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

12           **VI.    Class action allegations.**

13           84.     Plaintiffs bring the asserted claims on behalf of the proposed class of:

- 14           • Nationwide Class: all persons who, within the applicable statute of limitations period,  
15           purchased one or more ticket advertised at a discount on the SeaWorld or Sesame  
16           Place.
- 17           • SeaWorld Fake Sale Subclass: all persons who, while in the state of California and  
18           within the applicable statute of limitations, purchased one or more Sea World tickets  
19           at a discount.
- 20           • Sesame Fake Sale Place Subclass: all persons who, while in the state of California  
21           and within the applicable statute of limitations purchased one or more Sesame Place  
22           tickets at a discount.
- 23           • Sea World Hidden Fees Subclass: all persons who, while in the state of California and  
24           within the applicable statute of limitations and until June 30, 2024, purchased one or  
25           more Sea World tickets and paid hidden fees.
- 26           • Sesame Place Hidden Fees Subclass: all persons who, while in the state of California  
27           and within the applicable statute of limitations and until June 30, 2024, purchased one  
28           or more Sesame Place tickets and paid hidden fees.

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

9 ***Numerosity & Ascertainability.***

10           86.    The proposed class contains members so numerous that separate joinder of each  
11 member of the class is impractical. There are thousands or tens of thousands of class members.

12           87.    Class members can be identified through Defendant’s sales records and public  
13 notice.

14 ***Predominance of Common Questions.***

15           88.    There are questions of law and fact common to the proposed class. Common  
16 questions of law and fact include, without limitation:

- 17           • whether Defendant made false or misleading statements of fact in its advertisements;
- 18           • whether Defendant violated California’s consumer protection statutes;
- 19           • whether Defendant committed a breach of contract;
- 20           • whether Defendant committed a breach of an express warranty;
- 21           • whether Defendant’s drip pricing is unfair;
- 22           • whether Defendant’s drip pricing is illegal under California’s consumer protection  
23 statutes and the FTC Act;
- 24           • what damages are needed to reasonably compensate Plaintiffs and the proposed class.

25 ***Typicality & Adequacy.***

26           89.    Plaintiffs’ claims are typical of the proposed class. Like the proposed class,  
27 Plaintiffs purchased tickets from United Parks & Resorts. There are no conflicts of interest  
28 between Plaintiffs and the class.

1 ***Superiority.***

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

6 **VII. Claims.**

7 **First Cause of Action:**

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

9 **(By Plaintiffs and the Sea World and Sesame Fake Sale Place Subclasses)**

10 91. Plaintiffs incorporate each and every factual allegation set forth above.

11 92. Plaintiff Marks brings this cause of action individually and on behalf of the Sea  
12 World Fake Sale Subclass.

13 93. Plaintiff Galstian brings this cause of action individually and on behalf of the  
14 Sesame Place Fake Sale Subclass.

15 94. Defendant has violated Sections 17500 and 17501 of the Business and Professions  
16 Code.

17 95. Defendant has violated, and continues to violate, section 17500 of the Business  
18 and Professions Code by disseminating untrue and misleading advertisements to Plaintiffs and  
19 subclass members.

20 96. As alleged more fully above, Defendant advertises former prices along with  
21 discounts. Defendant does this, for example, by crossing out a higher price (*e.g.*, \$114.99) and  
22 displaying it next to a lower, discounted price. Reasonable consumers would understand prices  
23 denoted as regular prices from which time-limited discounts are calculated to denote “former”  
24 prices, *i.e.*, the prices that Defendant charged before the time-limited discount went into effect.

25 97. The prices advertised by Defendant are not Defendant’s regular prices. In fact,  
26 those prices are never Defendant’s regular prices (*i.e.*, the price you usually have to pay to get  
27 the ticket in question), because there is always a heavily-advertised promotion ongoing entitling  
28 consumers to a discount. Moreover, for the same reasons, those prices were not the former

1 prices of the tickets. Accordingly, Defendant’s statements about the former prices of its tickets,  
2 and its statements about its discounts from those former prices, were untrue and misleading. In  
3 addition, Defendant’s statements that its discounts are “limited time” and only “valid” for a  
4 certain time period are false and misleading too.

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

14 99. Defendant’s misrepresentations were intended to induce reliance, and Plaintiffs  
15 saw, read, and reasonably relied on the statements when purchasing Defendant’s tickets.  
16 Defendant’s misrepresentations were a substantial factor in Plaintiffs’ purchase decision.

17 100. In addition, subclass-wide reliance can be inferred because Defendant’s  
18 misrepresentations were material, i.e., a reasonable consumer would consider them important in  
19 deciding whether to buy the tickets.

20 101. Defendant’s misrepresentations were a substantial factor and proximate cause in  
21 causing damages and losses to Plaintiffs and the subclass.

22 102. Plaintiffs and the subclasses were injured as a direct and proximate result of  
23 Defendant’s conduct because (a) they would not have purchased Defendant’s tickets if they had  
24 known the truth, and/or (b) they overpaid for the tickets because the tickets were sold at a price  
25 premium due to the misrepresentation.

26 **Second Cause of Action:**

27 **Violation of California’s Consumer Legal Remedies Act**

28 **(By Plaintiffs and the Sea World and Sesame Place Fake Sale Subclasses)**



1 103. Plaintiffs incorporate each and every factual allegation set forth above.

2 104. Plaintiff Marks brings this cause of action individually and on behalf of the Sea  
3 World Fake Sale Subclass.

4 105. Plaintiff Galstian brings this cause of action individually and on behalf of the  
5 Sesame Place Fake Sale Subclass.

6 106. Plaintiffs and the class are “consumers,” as the term is defined by California  
7 Civil Code § 1761(d).

8 107. Plaintiffs and the subclasses have engaged in “transactions” with Defendant as  
9 that term is defined by California Civil Code § 1761(e).

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

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

18 110. Defendant violated, and continues to violate, section 1770 of the California Civil  
19 Code.

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

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

27 113. And Defendant violated, and continues to violate section 1770(a)(13) by making  
28 false or misleading statements of fact concerning reasons for, existence of, or amounts of, price

1 reductions on its website, including by (1) misrepresenting the regular price of Products on its  
2 website, (2) advertising discounts and savings that are exaggerated or nonexistent, (3)  
3 misrepresenting that the discounts and savings are unusually large, when in fact they are  
4 regularly available (4) misrepresenting the reason for the sale (*e.g.*, “Memorial Day Sale,” when  
5 in fact the sale is ongoing and not limited to Memorial Day).

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

9 115. Defendant’s misrepresentations were intended to induce reliance, and Plaintiffs  
10 saw, read, and reasonably relied on them when purchasing Defendant’s tickets. Defendant’s  
11 misrepresentations were a substantial factor in Plaintiffs’ purchase decision.

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

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

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

22 119. Accordingly, pursuant to California Civil Code § 1780(a)(2), Mr. Marks and Ms.  
23 Galstian, on behalf of themselves and all other members of the subclass, seek injunctive relief.

24 120. CLRA § 1782 NOTICE. On August 27, 2024, a CLRA demand letter was sent to  
25 Defendant’s registered agent via certified mail (return receipt requested), that provided notice of  
26 Defendant’s violations of the CLRA and demanded that Defendant correct the unlawful, unfair,  
27 false and/or deceptive practices alleged here. Defendant does not have a California  
28 headquarters. If Defendant does not fully correct the problem for Plaintiffs and for each

1 member of the California Subclass within 30 days of receipt, Plaintiffs and the California  
2 Subclass will seek all monetary relief allowed under the CLRA.

3 121. A CLRA venue declaration is attached.

4 **Third Cause of Action:**

5 **Violation of California’s Unfair Competition Law for Fake Sales**

6 **(By Plaintiffs and the Sea World and Sesame Place Fake Sale Subclasses)**

7 122. Plaintiffs incorporate each and every factual allegation set forth above.

8 123. Plaintiff Marks brings this cause of action individually and on behalf of the Sea  
9 World Fake Sale Subclass.

10 124. Plaintiff Galstian brings this cause of action individually and on behalf of the  
11 Sesame Place Fake Sale Subclass.

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

14 ***The Unlawful Prong.***

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

21 ***The Deceptive Prong.***

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

25 128. Defendant’s representations were misleading to Plaintiffs and other reasonable  
26 consumers.

27 129. Plaintiffs relied on Defendant’s misleading representations and omissions, as  
28 detailed above.

1               ***The Unfair Prong.***

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

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

8               132. The harm to Plaintiffs and the subclasses greatly outweighs the public utility of  
9 Defendant’s conduct. There is no public utility to misrepresenting the price of a consumer  
10 product. This injury was not outweighed by any countervailing benefits to consumers or  
11 competition. Misleading consumer products only injure healthy competition and harm  
12 consumers.

13               133. Plaintiffs and the subclasses could not have reasonably avoided this injury. As  
14 alleged above, Defendant’s representations were deceptive to reasonable consumers like  
15 Plaintiffs.

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

18               \* \* \*

19               135. For all prongs, Defendant’s representations were intended to induce reliance, and  
20 Plaintiffs saw, read, and reasonably relied on them when purchasing the Products. Defendant’s  
21 representations were a substantial factor in Plaintiffs’ purchase decision.

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

25               137. Defendant’s representations were a substantial factor and proximate cause in  
26 causing damages and losses to Plaintiffs and the subclass members.

27               138. Plaintiffs and the subclass were injured as a direct and proximate result of  
28 Defendant’s conduct because (a) they would not have purchased the Products if they had known

1 that they were not discounted, and/or (b) they overpaid for the Products because the Products  
2 were sold at the regular price and not at a discount.

3 **Fourth Cause of Action:**

4 **Violation of California’s Unfair Competition Law for use of Hidden Fees**

5 **(By Plaintiffs and the Sea World and Sesame Place Hidden Fees Subclasses)**

6 139. Plaintiffs incorporate each and every factual allegation set forth above.

7 140. Plaintiff Marks brings this cause of action individually and on behalf of the Sea  
8 World Hidden Fees Subclass.

9 141. Plaintiff Galstian brings this cause of action individually and on behalf of the  
10 Sesame Place Hidden Fees Subclass.

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

13 ***The Unlawful Prong.***

14 143. Defendant engaged in unlawful conduct by violating the FTC Act and the unfair  
15 prong of the UCL, as alleged above and throughout.

16 ***The Unfair Prong.***

17 144. Defendant’s conduct is unfair because the harm to the consumer greatly  
18 outweighs the public utility of Defendant’s conduct. There is no public utility to using junk fees.  
19 Junk fees mislead consumers on price, and prevent comparison shopping and competition. This  
20 injury was not outweighed by any countervailing benefits to consumers or competition. Hidden  
21 and late-disclosed fees only injure healthy competition and harm consumers. And companies  
22 could easily disclose any such fees upfront.

23 145. Defendant violated established public policy by violating the FTC Act and the  
24 UCL, as alleged below and incorporated here. The unfairness of this practice is tethered to a  
25 legislatively declared policy (that of the FTC Act and of the California legislature, which, as  
26 alleged above, expressly declared that drip pricing is unfair and violates the UCL).

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

1 147. Plaintiffs and the class could not have reasonably avoided this injury. As alleged  
2 above, Defendant's fees were not disclosed until after consumers select their theme park tickets.  
3 By then, the harm was done.

4 148. Defendant's use of hidden fees were a substantial factor and proximate cause in  
5 causing damages and losses to Plaintiffs and class members.

6 149. Plaintiffs and class members were injured as a direct and proximate result of  
7 Defendant's conduct because (1) they paid illegal and unfair junk fees, and/or (2) they overpaid  
8 for the tickets because they are sold at a price premium due to the hidden fees.

9 **Fifth Cause of Action:**

10 **Breach of Contract**

11 **(by Plaintiffs and the Nationwide Class)**

12 150. Plaintiffs incorporate each and every factual allegation set forth above.

13 151. Plaintiffs bring this cause of action on behalf of themselves and the Nationwide  
14 Class. In the alternative, Plaintiff Marks brings it on behalf of himself and the Sea World Fake  
15 Sale Subclass, and Plaintiff Galstian brings it on behalf of the Sesame Place Fake Sale Subclass.

16 152. Plaintiffs and class members entered into contracts with Defendant when they  
17 placed orders to purchase Products on Defendant's website.

18 153. The contracts provided that Plaintiffs and class members would pay Defendant  
19 for the Products purchased.

20 154. The contracts further required that Defendant provides Plaintiffs and class  
21 members with Products that have a market value equal to the regular prices displayed on the  
22 website. They also required that Defendant provide Plaintiffs and class members with a  
23 discount equal to the difference between the price paid, and the regular prices advertised. These  
24 were specific and material terms of the contract.

25 155. The specific discounts were a specific and material term of each contract.

26 156. Plaintiffs and class members paid Defendant for the Products they purchased, and  
27 satisfied all other conditions of their contracts.

28

1 157. Defendant breached its contracts with Plaintiffs and class members by failing to  
2 provide Products that had a regular price, former price, and/or prevailing market value equal to  
3 the regular price displayed on its website, and by failing to provide the promised discount.  
4 Defendant did not provide the discount that it had promised.

5 158. Plaintiffs provided Defendant with notice of this breach of contract, by mailing a  
6 notice letter to Defendant’s headquarters, on August 27, 2024.

7 159. As a direct and proximate result of Defendant’s breaches, Plaintiffs and class  
8 members were deprived of the benefit of their bargained-for exchange, and have suffered  
9 damages in an amount to be established at trial.

10 **Sixth Cause of Action:**

11 **Breach of Express Warranty**

12 **(by Plaintiffs and the Sea World and Sesame Place Fake Sale Subclasses)**

13 160. Plaintiffs incorporate each and every factual allegation set forth above.

14 161. Plaintiff Marks brings this cause of action individually and on behalf of the Sea  
15 World Fake Sale Subclass.

16 162. Plaintiff Galstian brings this cause of action individually and on behalf of the  
17 Sesame Place Fake Sale Subclass.

18 163. Defendant, as the manufacturer, marketer, distributor, supplier, and/or seller of  
19 the Defendant’s tickets, issued material, written warranties by advertising that the Products had  
20 a prevailing market value equal to the regular price displayed on Defendant’s website. This was  
21 an affirmation of fact about the Products (i.e., a representation about the market value) and a  
22 promise relating to the goods.

23 164. This warranty was part of the basis of the bargain and Plaintiffs and members of  
24 the subclass relied on this warranty.

25 165. In fact, the Defendant’s tickets’ stated market value was not the prevailing  
26 market value. Thus, the warranty was breached.

27 166. Plaintiffs provided Defendant with notice of this breach of warranty, by mailing a  
28 notice letter to Defendant’s headquarters, on August 27, 2024.

1 167. Plaintiffs and the subclasses were injured as a direct and proximate result of  
2 Defendant’s breach, and this breach was a substantial factor in causing harm, because (a) they  
3 would not have purchased Defendant’s tickets if they had known that the warranty was false, or  
4 (b) they overpaid for the tickets because the tickets were sold at a price premium due to the  
5 warranty.

6 **Seventh Cause of Action:**

7 **Quasi-Contract**

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

9 168. Plaintiffs incorporate each and every factual allegation in paragraphs 1-45, 52-90  
10 above.

11 169. Plaintiffs bring this cause of action in the alternative to his Breach of Contract  
12 claim (Claim IV) on behalf of themselves and the Nationwide Class. In the alternative, Plaintiff  
13 Marks brings this cause of action individually and on behalf of the Sea World Fake Sale and Sea  
14 World Hidden Fees Subclass, and Plaintiff Galstian brings this cause of action individually and  
15 on behalf of the Sesame Place Fake Sale and Sesame Place Hidden Fees Subclass.

16 170. As alleged in detail above, Defendant’s false and misleading advertising caused  
17 Plaintiffs and the class to purchase Defendant’s tickets and to pay a price premium for these  
18 tickets.

19 171. Defendant’s unlawful and unfair “convenience fees” caused Plaintiffs and the  
20 class to overpay for the theme park tickets.

21 172. In this way, Defendant received a direct and unjust benefit, at Plaintiffs’ expense.

22 173. (In the alternative only), due to Defendant’s misrepresentations, its contracts with  
23 Plaintiffs and other class members are voidable.

24 174. Plaintiffs and the class seek restitution, and in the alternative, rescission.

25 **Eighth Cause of Action:**

26 **Negligent Misrepresentation**

27 **(by Plaintiffs and the Sea World and Sesame Place Fake Sale Subclasses)**

28 175. Plaintiffs incorporate each and every factual allegation set forth above.



1 176. Plaintiff Marks brings this cause of action individually and on behalf of the Sea  
2 World Fake Sale Subclass.

3 177. Plaintiff Galstian brings this cause of action individually and on behalf of the  
4 Sesame Place Fake Sale Subclass.

5 178. As alleged more fully above, Defendant made false representations and material  
6 omissions of fact to Plaintiffs and subclass members concerning the existence and/or nature of  
7 the discounts and savings advertised.

8 179. These representations were false.

9 180. When Defendant made these misrepresentations, it knew or should have known  
10 that they were false. Defendant had no reasonable grounds for believing that these  
11 misrepresentations were true when made.

12 181. Defendant intended that Plaintiffs and subclass members rely on these  
13 misrepresentations and Plaintiffs and subclass members read and reasonably relied on them.

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

17 183. Defendant's misrepresentations were a substantial factor and proximate cause in  
18 causing damages and losses to Plaintiffs and subclass members.

19 184. Plaintiffs and subclass members were injured as a direct and proximate result of  
20 Defendant's conduct because (a) they would not have purchased Defendant's tickets if they had  
21 known that the representations were false, and/or (b) they overpaid for the tickets because the  
22 tickets were sold at a price premium due to the misrepresentation.

23 **Ninth Cause of Action:**

24 **Intentional Misrepresentation**

25 **(by Plaintiffs and the Sea World and Sesame Place Fake Sale Subclasses)**

26 185. Plaintiffs incorporate each and every factual allegation set forth above.

27 186. Plaintiff Marks brings this cause of action individually and on behalf of the Sea  
28 World Fake Sale Subclass.

1 187. Plaintiff Galstian brings this cause of action individually and on behalf of the  
2 Sesame Place Fake Sale Subclass.

3 188. As alleged more fully above, Defendant made false representations and material  
4 omissions of fact to Plaintiffs and subclass members concerning the existence and/or nature of  
5 the discounts and savings advertised.

6 189. These representations were false.

7 190. When Defendant made these misrepresentations, it knew that they were false at  
8 the time that it made them and/or acted recklessly in making the misrepresentations.

9 191. Defendant intended that Plaintiffs and subclass members rely on these  
10 misrepresentations and Plaintiffs and subclass members read and reasonably relied on them.

11 192. In addition, subclass-wide reliance can be inferred because Defendant's  
12 misrepresentations were material, i.e., a reasonable consumer would consider them important in  
13 deciding whether to buy Defendant's tickets.

14 193. Defendant's misrepresentations were a substantial factor and proximate cause in  
15 causing damages and losses to Plaintiffs and subclass members.

16 194. Plaintiffs and subclass members were injured as a direct and proximate result of  
17 Defendant's conduct because (a) they would not have purchased Defendant's tickets if they had  
18 known that the representations were false, and/or (b) they overpaid for the tickets because the  
19 tickets were sold at a price premium due to the misrepresentation.

20 **VIII. Prayer for Relief.**

21 195. Plaintiffs seek the following relief for themselves and the class:

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

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

Date: September 19, 2024

Respectfully submitted,

By:  \_\_\_\_\_

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**Demand for Jury Trial**

Plaintiffs demand the right to a jury trial on all claims so triable.

Date: September 19, 2024

Respectfully submitted,

By:   
\_\_\_\_\_

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