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County of Alameda

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF ALAMEDA

UNLIMITED JURISDICTION

MARCUS JOHNSON, on behalf of himself and
all others similarly situated,

Plaintiff,

vs.

FIVERR, INC., a corporation,

Defendant.

Case No.: **25CV114008**

CLASS ACTION

**COMPLAINT FOR INJUNCTIVE RELIEF
AND RESTITUTION FOR**

**1. Violation of the Consumers Legal
Remedies Act, Cal. Civ. Code §§ 1750–1784;
2. Violation of the False Advertising Law,
Cal. Bus. & Prof. Code §§ 17500–17606;
3. Violation of the Unfair Competition Law,
Cal. Bus. & Prof. Code §§ 17200–17210; and
4. Unjust Enrichment**

DEMAND FOR JURY TRIAL

1 Plaintiff Marcus Johnson, on behalf of himself and all others similarly situated, complains of
2 Defendant Fiverr, Inc. as follows, on information and belief except as to his own experiences and
3 matters of public record:

4 INTRODUCTION

5 1. California law prohibits “drip pricing”—the practice of listing one price for a good
6 or service up front, then adding one or more hidden “junk fees” to the total price just before the
7 consumer decides to complete the transaction—as a form of dishonest bait and switch advertising.

8 2. Fiverr, the owner and operator of an online freelancing platform, does just what the
9 law prohibits. Over and over again, it lists one upfront price to entice consumers into making a
10 purchasing decision, only to pull the rug out from under their feet at the last stage of the transaction
11 by adding hidden, mandatory junk fees when consumers have already decided to complete the
12 transaction in reliance on the upfront price.

13 3. Plaintiff Marcus Johnson purchased certain services on Fiverr, the price of which
14 was misleadingly and unlawfully advertised as lower than the total price Johnson would pay after
15 Fiverr smuggled in its junk fees just as he was completing the transaction.

16 4. On his own behalf and on behalf of all other similarly injured consumers in
17 California, Johnson brings this action to put a stop to Fiverr’s illegal business practices and to
18 remedy the injuries they have caused.

19 JURISDICTION AND VENUE

20 5. This Court has subject matter jurisdiction of this action under section 10, article VI,
21 of the California Constitution, and section 410.10 of the California Code of Civil Procedure.

22 6. Venue is proper in this Court under sections 395(a) and 395.5 of the California Code
23 of Civil Procedure because Plaintiff’s injuries occurred in Alameda County.

24 PARTIES

25 7. Plaintiff Marcus Johnson is a resident of Oakland, California.

26 8. Defendant Fiverr Inc. is a corporation incorporated in Delaware with its principal
27 place of business at 26 Mercer St., New York, NY 10013.

FACTUAL ALLEGATIONS

I. California's Honest Pricing Law

9. "[T]he price a Californian sees should be the price they pay."¹

10. This straightforward, commonsense proposition underlies California Senate Bill 478, effective July 1, 2024, codified at Cal. Civ. Code § 1770(a)(29), called the "Honest Pricing Law" or "Hidden Fees Statute."

11. "Hidden fees" refer to fees charged by sellers in consumer transactions that are obscured from the consumer.² Hidden fees are also called "junk fees."³ Such fees are "mandatory but not transparently disclosed to consumers."⁴ Consumers may be "lured in with the promise of a low price, but when they get to the register, they discover that price was never really available."⁵ Hidden junk fees are thus "an evolution of bait-and-switch schemes."⁶

12. The practice of disclosing hidden or junk fees "late in the buying process" is often called "drip pricing."⁷ Using drip pricing, "firms advertise only part of a product's total price to lure in consumers."⁸ Then, once "the consumer already has spent significant time selecting and finalizing a product or service plan to purchase," the junk fees are disclosed.⁹

13. Consumers "feel committed to a purchase" at this stage of the transaction and thus go through with it anyway, despite feeling "frustrated" that "they have no idea how much it costs

¹ Cal. Dep't of Justice Off. of the Att'y Gen., *SB 478 Frequently Asked Questions* 1 (emphasis omitted), <https://oag.ca.gov/system/files/attachments/press-docs/SB%20478%20FAQ%20%28B%29.pdf> (last accessed Mar. 3, 2025).

² See Fed. Trade Comm'n, *Bringing Dark Patterns to Light* 7 (Sept. 2022), https://www.ftc.gov/system/files/ftc_gov/pdf/P214800%20Dark%20Patterns%20Report%209.14.2022%20-%20FINAL.pdf.

³ Fed. Trade Comm'n, *FTC Proposes Rule to Ban Junk Fees* (Oct. 11, 2023), <https://www.ftc.gov/news-events/news/press-releases/2023/10/ftc-proposes-rule-ban-junk-fees/> (discussing "hidden fees" as a "junk fee practice[']").

⁴ The White House, *The Price Isn't Right: How Junk Fees Cost Consumers and Undermine Competition*, The White House (March 5, 2024), <https://web.archive.org/web/20250118015252/https://www.whitehouse.gov/cea/written-materials/2024/03/05/the-price-isnt-right-how-junk-fees-cost-consumers-and-undermine-competition/>.

⁵ *Id.*

⁶ *Id.* n.2.

⁷ *Bringing Dark Patterns to Light*, *supra* note 2, at 8–9.

⁸ *Id.* at 8.

⁹ *Id.* at 9.

until it's too late.”¹⁰

14. As an example of drip pricing of junk fees, the FTC has pointed to “convenience fee[s] that appear[] only when a shopper reaches the check-out screen”:¹¹

The screenshot shows a web browser window with the title 'FITNESS TRAINER'. The page is titled 'Checkout' in a dark blue header. Below the header, there is a 'Payment Method' section with input fields for 'Name on Credit Card', 'Credit Card Number', 'Expiration Date', and 'Security Code'. To the right of these fields, a text box states: 'Here, an unexpected convenience fee of \$4.99 appears only right before you check out.' Below the payment section is an 'Order Details' section. It features a blue icon of a person on the left and a table on the right. The table has two columns: 'Product' and 'Total'. The rows are: 'Full Body Program' (\$17.00), 'Convenience Fee' (\$4.99, highlighted with a red box), 'Tax' (\$1.08), and 'Total' (\$23.07). Below the table is a 'Complete Purchase' button. To the right of the table, the text 'Drip Pricing' is visible.

Product	Total
Full Body Program	\$ 17.00
Convenience Fee	\$ 4.99
Tax	\$ 1.08
Total	\$ 23.07

15. Junk fees harm both consumers and honest businesses.

16. “Junk fees cost American families tens of billions of dollars each year and inhibit competition, hurting consumers, workers, small businesses, and entrepreneurs.”¹²

17. Specifically, “[d]rip pricing interferes with consumers’ ability to price-compare and manipulates them into paying fees that are either hidden entirely or not presented until late in the transaction.”¹³

18. As a result, according to one study, consumers who were not shown full prices, including mandatory fees, at the beginning of a transaction “ended up spending about 20% more money and were 14% more likely to complete” it than consumers to whom junk fees were disclosed up front.¹⁴

¹⁰ *Id.*

¹¹ *Id.* at 23, 30.

¹² The White House, *Biden-Harris Administration Announces Broad New Actions to Protect Consumers From Billions in Junk Fees* (Oct. 11, 2023), <https://web.archive.org/web/20250118020934/https://www.whitehouse.gov/briefing-room/statements-releases/2023/10/11/biden-harris-administration-announces-broad-new-actions-to-protect-consumers-from-billions-in-junk-fees/>.

¹³ *Bringing Dark Patterns to Light*, *supra* note 2, at 9.

¹⁴ *Id.*

1 19. Drip pricing hurts honest businesses too. An “honest business that sets forth the total
2 price of its product at the outset will be at a significant disadvantage when compared to a seller that
3 advertises an artificially low price to draw consumers in, then adds mandatory charges late in the
4 transaction.”¹⁵

5 20. To suppress this dishonest bait and switch, California enacted the Honest Pricing
6 Law. The State Assembly declared that SB 478 is “intended to specifically prohibit drip pricing,
7 which involves advertising a price that is less than the actual price that a consumer will have to pay
8 for a good or service,”¹⁶ and identified drip pricing as a form of “bait and switch advertising.”¹⁷

9 21. As the California Attorney General has summarized succinctly, “The law requires
10 honest pricing. It prohibits businesses from ‘[a]dvertising, displaying, or offering a price for a good
11 or service that does not include all mandatory fees or charges’ other than government-imposed taxes
12 or fees or reasonable shipping costs.”¹⁸

13 22. “Honest pricing” means not just that junk fees are disclosed at some point in the
14 transaction. “Can a business comply with this law by disclosing additional required fees before a
15 consumer finalizes a transaction? No. The advertised or listed price must be the full price that the
16 consumer is required to pay. ... If a business chooses to list a price for a good or service, the
17 advertised price must be the entire amount the consumer will have to pay, not including any fees for
18 optional services or features, taxes, or shipping charges.”¹⁹

19 23. Further, “like other forms of bait and switch advertising,” drip pricing is “prohibited
20 by existing [California] statutes, including the Unfair Competition Law (Chapter 5 (commencing
21 with Section 17200) of Part 2 of Division 7 of the Business and Professions Code) and the False
22 Advertising Law (Chapter 1 (commencing with Section 17500) of Part 3 of Division 7 of the
23 Business and Professions Code).”²⁰

24
25
26 ¹⁵ *Id.*

¹⁶ S.B. 478, 2023–2024 Leg. § 1(a) (Cal. 2023).

¹⁷ *Id.* § 1(b).

¹⁸ Cal. Dep’t of Justice Off. of the Att’y Gen., *supra* note 1, at 1 (quoting Cal. Civ. Code § 1770(a)(29)(A)).

¹⁹ *Id.* at 2–3.

²⁰ S.B. 478, 2023–2024 Leg. § 1(b) (Cal. 2023).

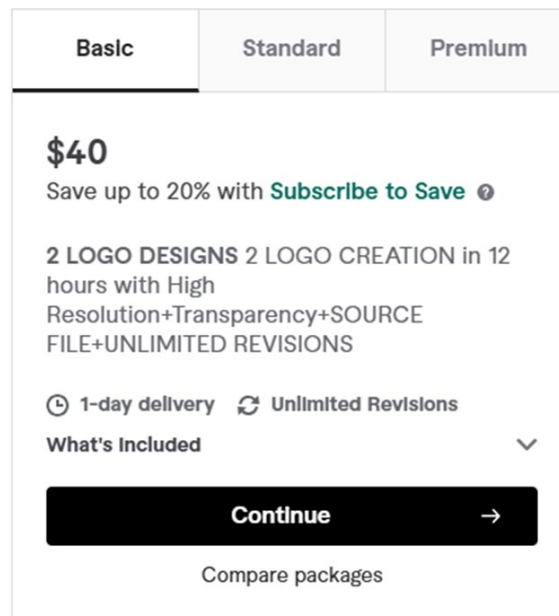
24. Federal law likewise prohibits dishonest bait and switch advertising like drip pricing. Specifically, Section 5 of the FTC Act prohibits “[u]nfair methods of competition in or affecting commerce, and unfair or deceptive acts or practices in or affecting commerce.”²¹

II. Fiverr’s Dishonest Drip Pricing

25. Fiverr is an online platform that offers freelancing services to consumers.

26. Like other businesses—such as Door Dash, Lyft, or Airbnb—that connect consumers to service providers, Fiverr’s platform connects freelancers with consumers who need freelancing services.

27. For example, the founder of a hiking club who wanted a logo for the club could go on Fiverr’s website and see an offer for logo creation priced at \$40:



28. Fiverr’s platform prominently displays the qualifications, accomplishments, and consumer reviews of each freelancer, so that consumers are likely to invest considerable time researching and selecting the freelancer of their choice before clicking “Continue”:

²¹ 15 U.S.C. § 45(a).

I will do quality logo creation in 12 hours



Cbhitech Level 2 ♦♦ 25 orders in queue
★★★★★ 4.8 (4151 reviews)



What people loved about this freelancer

[See all reviews](#)

29. Beneath this material, the \$40 purchase price is advertised again under the heading “About this gig”:

About this gig

Hi,

Do you need a Quality Logo Creation In just 12 hours?

If yes, stop looking for other gigs because, in this high-quality logo creation gig, we design modern, flat, unique, professional, Minimalist Luxury, and Creative Business Logo.

With 4,000+ projects completed, we are the perfect choice to deliver 2 modern Logo Design concepts for your business in 12 hours for just \$40 with unlimited revisions.

30. Clicking the “Continue” button pictured above leads to another screen twice listing a \$40 price:

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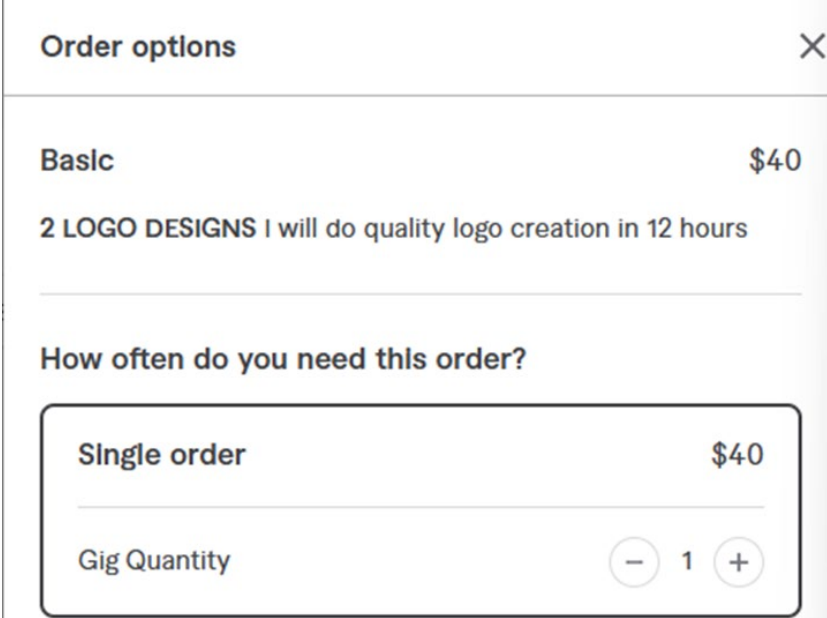
7

8

9

10

11



Order options

Basic \$40

2 LOGO DESIGNS I will do quality logo creation in 12 hours

How often do you need this order?

Single order \$40

Gig Quantity - 1 +

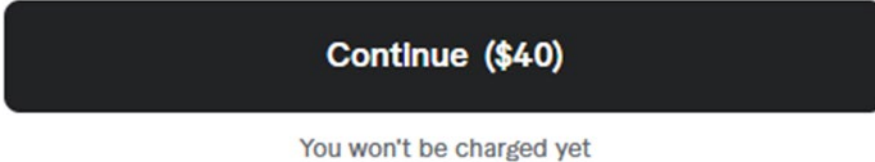
12 31. The \$40 price is listed *again* on this page's "Continue" button:

13

14

15

16



Continue (\$40)

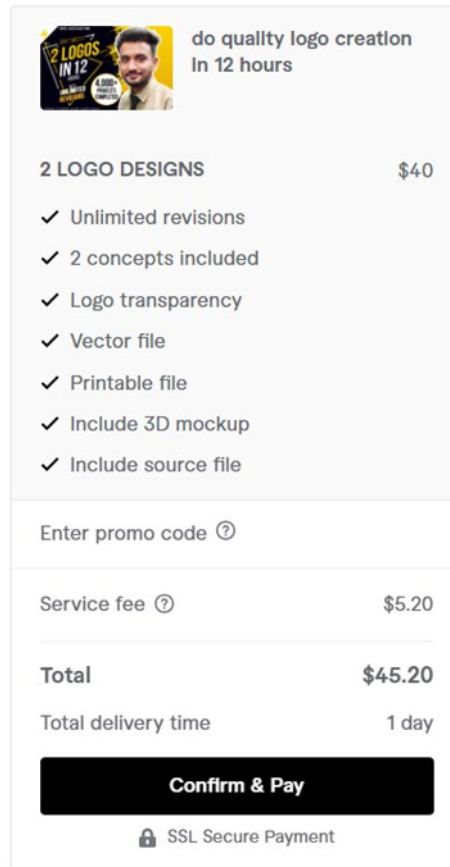
You won't be charged yet

17 32. So much for the bait. Now the switch.

18 33. Only now—after seeing a \$40 price listed no fewer than *five times*, and likely after

19 investing significant time in selecting the freelancer and service of her choice—is the full price of

20 transaction revealed to the consumer:



do quality logo creation
in 12 hours

2 LOGO DESIGNS \$40

- ✓ Unlimited revisions
- ✓ 2 concepts included
- ✓ Logo transparency
- ✓ Vector file
- ✓ Printable file
- ✓ Include 3D mockup
- ✓ Include source file

Enter promo code ?

Service fee ? \$5.20

Total \$45.20

Total delivery time 1 day

Confirm & Pay

SSL Secure Payment

34. A junk “service fee” of \$5.20, amounting to 13 percent of the listed \$40 price, has been added to the consumer’s total at the final step of the transaction.

III. Plaintiff’s Experience

35. Plaintiff Marcus Johnson purchased freelance services on Fiverr’s platform on August 1, 2024.

36. Johnson sought professional designs for a book cover and a cartoon mascot.

37. After investing significant time selecting the freelancer and service of his choice, Johnson selected a service listed at \$35.

38. After completing the steps described above, Johnson was confronted with a junk \$4.93 “service fee,” amounting to 14 percent of the listed price.

39. Having already decided to purchase the service, Johnson completed the transaction and paid \$39.93 total, including the \$4.93 junk fee:

I will design unique cartoon character and mascot logo in perfect **Total price**
q **\$39.93**

Ordered from | Delivery date Aug 6, 2024 at 11:19 PM

Order number [View billing history](#)

Ultra Coloring with Shading✓ JPG, PNG with Source File✓ (You Can Use this Package for Mascot Logo)

Your order Aug 1, 2024 at 11:16 PM			
Item	Qty.	Duration	Price
ULTRA COLORING with SHADING (Best) Ultra Coloring with Shading✓ JPG, PNG with Source File✓ (You Can Use this Package for Mascot Logo) <ul style="list-style-type: none"> • 3 Revisions • 1 Figure • Include Source File • Printable resolution file • Add background/scene • Include colors in illustration • Commercial Use 	1	3 days	\$20
Additional Figures	1	1 day	\$15
Subtotal			\$35
Service Fee			\$4.93
Total			\$39.93

40. Johnson believed that the initially listed \$35 price would be the actual price he would pay. In other words, Johnson believed the \$35 price included all mandatory fees (excluding taxes and shipping charges, which did not apply here).

41. Johnson relied on the listed \$35 price in comparing the service he purchased to other available services, and in his initial purchasing decision. Johnson would have purchased a different service on Fiverr or no services at all had he known that the price was in fact \$39.93, rather than the listed \$35 price.

42. Johnson intends to use Fiverr to purchase other freelancing services in the future.

CLASS ALLEGATIONS

43. Plaintiff brings this action under section 382 of the California Code of Civil Procedure, on his own behalf and on behalf of all others similarly situated.

44. Subject to future amendment or revision, Plaintiff seeks to represent the following putative class (“Class”):

All California residents who purchased freelancing services on Fiverr’s platform on or after July 1, 2024.

45. Excluded from the Class are Defendant’s officers, directors, and employees; Defendant’s parents, subsidiaries, affiliates, and any entity in which Defendant has a controlling interest; undersigned counsel for Plaintiff; and all judges and court staff to whom this action may be assigned, as well as their immediate family members.

46. The Class is so numerous that joinder of all its members is impractical, as Plaintiff estimates it numbers to be in the thousands.

47. There are questions of law and fact common to the Class, including without limitation (a) whether Defendant has charged hidden junk fees through drip pricing; (b) whether Defendant’s conduct violates the Honest Pricing Law, or other state and federal laws; (c) whether Defendant’s conduct was unfair or objectively misleading; (d) whether Defendant has been unjustly enriched by its violation of Plaintiff’s rights; and (e) whether Defendant should be enjoined from charging hidden junk fees through drip pricing.

48. Plaintiff’s claims are typical of the Class’s. Plaintiff and Class members share the same state and federal rights, which Defendant has injured in the same way by charging illegal junk fees through drip pricing.

49. Plaintiff will fairly and adequately protect the Class’s interests, as Plaintiff shares the Class’s interest in avoiding illegal drip pricing; has no interest adverse to the Class’s; and has retained competent counsel experienced in consumer protection and class action litigation.

50. By charging hidden junk fees through drip pricing on each transaction, Defendant has acted on grounds that apply generally to Plaintiff and the Class.

51. The questions of law and fact common to Plaintiff and the Class predominate over

any individualized questions because, among other reasons, Defendant has violated their rights under the same laws by the same conduct.

52. A class action is superior to other available methods for adjudicating this controversy because, among other reasons, Plaintiff's and Class members' claims may be too small to justify individual litigation.

CLAIMS TO RELIEF

FIRST CLAIM TO RELIEF

Violation of the Consumers Legal Remedies Act, Cal. Civ. Code §§ 1750–1784

53. Plaintiff realleges paragraphs 1–42 above.

54. Section 1770(a)(29)(A) of the California Civil Code prohibits “[a]dvertising, displaying, or offering a price for a good or service that does not include all mandatory fees or charges” other than “[t]axes or fees imposed by a government on the transaction” or “[p]ostage or carriage charges that will be reasonably and actually incurred to ship the physical good to the consumer.”

55. Defendant violated Cal. Civ. Code § 1770(a)(29)(A) by omitting its junk “service fees” from the prices listed on its platform until the last step of the transaction.

56. As a result of Defendant's violation, Plaintiff has suffered damage by spending time and money he would not have spent but for Defendant's misleading drip pricing.

57. For Defendant's violation of the Consumers Legal Remedies Act, Plaintiff seeks an injunction against Defendant's illegal drip pricing.

SECOND CLAIM TO RELIEF

Violation of the False Advertising Law, Cal. Bus. & Prof. Code §§ 17500–17606

58. Plaintiff realleges paragraphs 1–42 above.

59. Section 17500 of the California Business and Professions Code provides that it is unlawful to make, disseminate, or cause the dissemination of advertising “which is untrue or misleading, and which is known, or which by the exercise of reasonable care should be known, to be untrue or misleading.”

60. Defendant violated Cal. Bus. & Prof. Code § 17500 by misleadingly advertising an

1 upfront price that was lower than the total price—including hidden junk fees—it would ultimately
2 charge.

3 61. As a result of Defendant’s violation, Plaintiff has suffered injury in fact and lost
4 money by spending time and money he would not have spent but for Defendant’s misleading drip
5 pricing.

6 62. For Defendant’s violation of the False Advertising Law, Plaintiff seeks an injunction
7 against Defendant’s illegal drip pricing, as well as restitution.

8 **THIRD CLAIM TO RELIEF**

9 **Violation of the Unfair Competition Law, Cal. Bus. & Prof. Code §§ 17200–17210**

10 63. Plaintiff realleges paragraphs 1–42 above.

11 64. Section 17200 of the California Business and Professions Code prohibits unfair
12 competition by means of “any unlawful, unfair or fraudulent business act or practice,” including by
13 violations of the False Advertising Law.

14 65. Defendant violated Cal. Bus. & Prof. Code § 17200 by (a) unlawfully engaging in
15 drip pricing, in violation of the Consumers Legal Remedies Act, the False Advertising Law, and
16 Section 5 of the FTC Act; (b) unfairly engaging in unethical bait and switch advertising that injures
17 consumers and benefits no one but Defendant, and violates the legislatively declared policy of price
18 transparency; and (c) fraudulently advertising an upfront price that was lower than the total price—
19 including hidden junk fees—it would ultimately charge.

20 66. As a result of Defendant’s violation, Plaintiff has suffered injury in fact and lost
21 money by spending time and money he would not have spent but for Defendant’s misleading drip
22 pricing.

23 67. For Defendant’s violation of the Unfair Competition Law, Plaintiff seeks an
24 injunction against Defendant’s illegal drip pricing, as well as restitution.

25 **FOURTH CLAIM TO RELIEF**

26 **Unjust Enrichment, California Common Law**

27 68. Plaintiff realleges paragraphs 1–42 above.

28 69. Defendant received a benefit at Plaintiff’s expense when Plaintiff paid the junk

1 “service fee” Defendant charged.

2 70. Defendant has unjustly retained the benefit Plaintiff conferred on it because
3 Defendant procured the benefit through unlawful and misleading drip pricing, as well as through the
4 oppressive psychological mechanisms on which drip pricing depends.

5 71. For Defendant’s unjust enrichment, Plaintiff seeks restitution of the benefits he paid
6 and Defendant unjustly retained.

7 **PRAYER FOR RELIEF**

8 72. Plaintiff asks the Court to

9 a. Certify this action as a class action under California Code of Civil Procedure
10 § 382, appoint Plaintiff as class representative, and appoint Plaintiff’s counsel as class
11 counsel;

12 b. Enter a final judgment in Plaintiff’s and the Class’s favor that

13 i. Permanently enjoins Defendant from the unlawful conduct alleged in
14 this Complaint,

15 ii. Awards restitution to Plaintiff and the Class according to proof, and

16 iii. Awards pre- and postjudgment interest, as allowed by law;

17 c. Award Plaintiff and his counsel their reasonable costs and fees incurred in
18 prosecuting this action, as allowed by law;

19 d. Order such further relief as the Court deems appropriate.

20 **JURY DEMAND**

21 73. Plaintiff demands a trial by jury on all issues so triable.
22
23

24 Dated: January 17, 2025,

Respectfully submitted,

25 By: /s/ Andrew G. Gunem
Andrew G. Gunem (SBN 354042)

26 Carly M. Roman (SBN 349895)

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