

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

REBEKA RODRIGUEZ,  
individually, and on behalf of all  
others similarly situated,  
Plaintiff,

v.

WAYFAIR LLC, a Delaware  
entity, d/b/a  
WWW.WAYFAIR.COM,  
Defendant.

2:25-cv-06910-DSF-AGR

Order GRANTING Motion to  
Compel Arbitration (Dkt. 11)

Defendant Wayfair LLC (Wayfair) moves to compel arbitration and stay these proceedings pending individual arbitration of claims brought by Plaintiff Rebeka Rodriguez. Dkt. 11 (Mot.). Rodriguez opposes. Dkt. 14 (Opp'n). The Court deems this matter appropriate for decision without oral argument. See Fed. R. Civ. P. 78; Local Rule 7-15. For the reasons stated below, the motion is GRANTED, and Rodriguez's request for judicial notice, Dkt. 14-1, is DENIED as moot.

**I. BACKGROUND**

In May 2025, Rodriguez purchased a "Weather Resistant Rabbit Hutch" (the Product) from Wayfair for a purportedly discounted price of \$159.99, which Wayfair compared to a "strike-through" "reference price" of \$269.99. Dkt. 14-6 (Rodriguez Decl.) ¶ 2; Dkt. 1-1 (Compl.) ¶ 8. Rodriguez alleges, however, that the advertised "discounted" price was an example of a "phantom discount," which intentionally

“mislead[s] customers into believing that they are getting a bargain by buying products from [Wayfair] on sale and at a substantial and deep discount” from an “artificially inflated” “reference price.” Compl. ¶¶ 9-10.

Rodriguez created an account on Wayfair’s website and purchased the Product on the same day. Dkt. 11-2 (Henson Decl.) ¶ 6. Though Wayfair and Rodriguez disagree on the exact date the purchase was made, Rodriguez does not dispute that she created a Wayfair account.<sup>1</sup> Both the account creation and order placement processes include a link to Wayfair’s Terms of Use, which include its arbitration provision. Henson Decl. ¶¶ 4-5; Dkt. 14-3 (Ferrell Decl.) ¶¶ 2-3.

At all relevant times, the fourth paragraph of the Terms state:

**Please note that these Terms of Use contain provisions that govern the resolution of claims between Wayfair and you, including an arbitration agreement, class action waiver, and jury trial waiver that affect your rights. In arbitration, there is no judge or jury and there is less discovery and appellate review than in court.**

Henson Decl. Ex. C, at 2. The arbitration provision is located further down in the Terms, and it begins:

**Any dispute, claim or controversy (that is not resolved informally as set forth below) between you and Wayfair, its agents, employees, officers,**

---

<sup>1</sup> Wayfair asserts that its business records indicate the purchase was made on May 13, 2025, while Rodriguez claims she made the purchase on May 12, 2025. Henson Decl. ¶ 6; Rodriguez Decl. ¶ 2. This discrepancy may be due to time zone differences. Compare Mot. at 2 n.1 (“Plaintiff alleges that she placed the order on May 12, 2025, but Wayfair’s records show it was placed at 1:27 a.m. ET on May 13, 2025.”) with Rodriguez Decl. ¶ 2 (indicating Rodriguez visited the Wayfair website “on May 12, 2025, before 11:00 p.m. Pacific Daylight Time”).

directors, principals, successors, assigns, subsidiaries or affiliates (collectively for purposes of this section, ‘Wayfair’) arising from or relating in any way to: (1) these Terms of Use and their interpretation or the breach, termination or validity thereof, and the relationships which result from these Terms of Use; (2) your use of any website owned or operated by Wayfair and its affiliated brands; or (3) any products or services sold or distributed by Wayfair and its affiliated brands or through any website owned or operated by Wayfair and its affiliated brands (collectively, “Covered Disputes”) will be resolved by binding arbitration, rather than in court.

Id. at 22-23.

On June 24, 2025, Rodriguez filed this putative class action against Wayfair in California Superior Court, asserting claims for (1) violation of California’s False Advertising Law, Cal. Bus. & Prof. Code § 17501, (2) violation of California’s Consumers Legal Remedies Act, Cal. Civil Code § 1770(a)(13), and (3) California common law fraud. Compl. ¶¶ 31-48. Rodriguez seeks to represent a class of “persons who purchased any product from [Wayfair’s] Website while in California within the statute of limitations period at a purported discount from a higher reference price.” Id. ¶ 23. On July 28, 2025, Wayfair removed this action. Dkt. 1.

## II. LEGAL STANDARD

The Federal Arbitration Act (FAA) “governs the enforceability of arbitration agreements in contracts involving interstate commerce.” Knapke v. PeopleConnect, Inc., 38 F.4th 824, 830-31 (9th Cir. 2022) (quoting Kramer v. Toyota Motor Corp., 705 F.3d 1122, 1126 (9th Cir. 2013)). The FAA “makes agreements to arbitrate ‘valid, irrevocable, and enforceable, save upon such grounds as exist at law or in equity for

the revocation of any contract.” AT&T Mobility LLC v. Concepcion, 563 U.S. 333, 336 (2011) (quoting 9 U.S.C. § 2).

“The limited role of the district court under the FAA is to determine ‘(1) whether a valid agreement to arbitrate exists and, if it does, (2) whether the agreement encompasses the dispute at issue.’” Wilson v. Huuuge, Inc., 944 F.3d 1212, 1219 (9th Cir. 2019) (quoting Chiron Corp. v. Ortho Diagnostic Sys., Inc., 207 F.3d 1126, 1130 (9th Cir. 2000)).

The “party seeking to compel arbitration . . . bears ‘the burden of proving the existence of an agreement to arbitrate[.]’” Norcia v. Samsung Telecomms. Am., LLC, 845 F.3d 1279, 1283 (9th Cir. 2017) (quoting Knutson v. Sirius XM Radio Inc., 771 F.3d 559, 565 (9th Cir. 2014)). “In determining whether the parties have agreed to arbitrate a particular dispute, federal courts apply state-law principles of contract formation.” Chabolla v. ClassPass Inc., 129 F.4th 1147, 1154 (9th Cir. 2025) (quoting Oberstein v. Live Nation Ent., Inc., 60 F.4th 505, 510 (9th Cir. 2023)).<sup>2</sup> Under California law, for a contract to be formed “there must be actual or constructive notice of the agreement and the parties must manifest mutual assent.” Id. (quoting Oberstein, 60 F.4th at 512-13). Assent may be manifested through a party’s conduct if the party “intend[s] the conduct and know[s], or ha[s] reason to know, the other party may infer her assent from the conduct.” Id.

### III. DISCUSSION

Wayfair argues that Rodriguez “twice agreed” to its Terms: when she created an account and when she completed her purchase. Mot. at

---

<sup>2</sup> The Terms include a governing-law provision that designates the law of the Commonwealth of Massachusetts as controlling. Henson Decl. Ex. C, at 30. Both parties, however, apply California law. Opp’n at 1-2; Reply at 10. Neither party contends that there are any substantive differences between California and Massachusetts law on the issue of notice of an online agreement. See Oberstein, 60 F.4th at 515 (“As California and Massachusetts law apply substantially similar rules, we need not engage in a detailed choice-of-law analysis.” (quotation marks omitted)).

7. In opposing Wayfair’s motion, Rodriguez disputes only “whether a valid agreement to arbitrate exists.” Wilson, 944 F.3d at 1219. Rodriguez argues that she was not provided with actual or constructive notice of the Terms, and that Wayfair has failed to show she manifested assent to its Terms. Opp’n at 1.

#### **A. Sign-In Wrap Agreement**

The Ninth Circuit, applying California law, has identified four types of “internet contracts”—“browsewrap, clickwrap, scrollwrap, and sign-in wrap agreements”—“each of which purport to bind users through different ‘assent’ mechanisms.” Chabolla, 129 F.4th at 1154. For browsewrap agreements, the “user accepts a website’s terms of use merely by browsing the site.” Id. (quoting Keebaugh v. Warner Bros. Ent. Inc., 100 F.4th 1005, 1014 (9th Cir. 2024)). “Courts consistently decline to enforce browsewraps.” Id. For clickwrap agreements, “the website presents its terms of use in a ‘pop-up screen’ and the user accepts those terms by clicking or checking a box stating she agrees.” Id. “Courts routinely enforce clickwraps.” Id. For scrollwrap agreements, “the user must scroll through all the terms before the website allows her to click a box to agree.” Id. These provide “‘the strongest notice’ and are usually enforced.” Id. (quoting Keebaugh, 100 F.4th at 1014). Finally, a “sign-in wrap lives somewhere in the middle: the website provides a link to terms of use and indicates that some action may bind the user but does not require that the user actually review those terms.” Id.

The assent mechanism on Wayfair’s account creation page most closely resembles a sign-in wrap. The acknowledgment text includes a link to the Terms and indicates that clicking the “Create Account” button “bind[s] the user.” Id.

A “sign-in wrap agreement may be an enforceable contract based on inquiry notice if (1) the website provides reasonably conspicuous notice of the terms to which the consumer will be bound; and (2) the consumer takes some action, such as clicking a button or checking a

box, that unambiguously manifests his or her assent to those terms.” Chabolla, 129 F.4th at 1154-55 (quoting Keebaugh, 100 F.4th at 1014).

For the first part of the test, “[t]he ‘context of the transaction,’ as well as the ‘traditional inquiry related to the visuals involved with the notice, such as font size, text placement, and overall screen design,’ inform whether a website provides reasonably conspicuous notice of the terms of an agreement.” Id. at 1155 (quoting Keebaugh, 100 F.4th at 1019). “The second part of the test—whether the user takes some action that unambiguously manifests assent—is relatively straightforward.” Id. at 1158 (quoting Oberstein, 60 F.4th at 515). “A user’s click of a button can be construed as an unambiguous manifestation of assent only if the user is explicitly advised that the act of clicking will constitute assent to the terms and conditions of an agreement.” Id. (quoting Berman v. Freedom Fin. Network, LLC, 30 F.4th 849, 857 (9th Cir. 2022)).

## **B. Context of the Transaction**

“The nature of an agreement may anticipate ‘some sort of continuing relationship . . . that would require some terms and conditions[.]’” Chabolla, 129 F.4th at 1155 (alteration in original) (quoting Sellers v. JustAnswer LLC, 289 Cal. Rptr. 3d 1, 26 (Ct. App. 2021)). “Conversely, when a user simply purchases goods or avails herself of a one-time discount offer, there is less reason for her to expect a continued relationship beyond the purchase.” Id.

Rodriguez alleges a one-off transaction—the purchase of the Product. Opp’n at 4-5. Wayfair, on the other hand, argues that Rodriguez established a “continuing relationship” with Wayfair when she “interacted with Wayfair’s website twice—first, when she created an account with Wayfair, and second, when she purchased a product from Wayfair’s website.” Reply at 10. Wayfair claims that “creating an account was not required to make the purchase.” Mot. at 3. But Wayfair provides no support for this fact. Wayfair also concedes that Rodriguez created her account and placed an order for the Product on

the same day. Henson Decl. ¶ 6. Neither party claims that Rodriguez has made any other purchases from Wayfair.

The Court finds that the context of the transaction “neither weighs in favor of nor against the notice requirement.” Chabolla, 129 F.4th at 1156. Though Rodriguez created a Wayfair account, there are no facts supporting that she created the account in a transaction separate from purchasing the Product. The Court therefore cannot find that the context of the transaction contemplated an ongoing relationship that would have “alerted [Rodriguez] to look for additional terms.” Id.

### **C. Visuals Involved with the Notice**

The screenshots contained in the exhibits relied on by Wayfair and Rodriguez for the account creation web page appear almost identical, except that the screen used to take the screenshots are different: Rodriguez’s version uses a bigger screen compared to Wayfair’s. Compare Ferrell Decl. Ex. 1 with Henson Decl. Ex. A. Neither party claims that their screenshot depicts the screen Rodriguez actually saw. Regardless, the Court’s analysis of the visuals for both versions is the same.

The account creation web page is sparse and has few elements. Ferrell Decl. Ex. 1. Under the heading “Create a Password,” there is the customer’s email address and a purple hyperlink with the text “Use a Different Email.” Id. Underneath is a box allowing the customer to create a password, labeled “Create Password,” followed by a large purple button, labeled with the white text “Create Account.” Id. Directly below the “Create Account” button reads the text, “By creating an account, you agree to our privacy policy and terms of use.” Id. The phrases “privacy policy” and “terms of use” are underlined and colored purple; the other text is written in a dark gray, almost black, color. Id. Clicking on “terms of use” leads to the full text of the Terms. Henson Decl. ¶ 4. All these elements of the web page can be seen without scrolling. Ferrell Decl. Ex. 1; Henson Decl. Ex. A.

The Court finds Wayfair’s password creation process provided reasonably conspicuous notice of the Terms. First, the sentence with the hyperlink to the Terms is “conspicuously displayed directly . . . below the action button”—here, the purple “Create Account” button. Oberstein, 60 F.4th at 516. Second, the “terms of use” text “is conspicuously distinguished from the surrounding text in [purple] font, making its presence readily apparent.” Id. The Ninth Circuit has held that these features “provide constructive notice of the Terms.” Id.

Rodriguez argues that notice is not reasonably conspicuous because the acknowledgment text is “not in boldface type,” the phrase “terms of use” is “uncapitalized,” and the “Create Account” button is larger and “far easier to see” than the acknowledgment text underneath the button. Opp’n at 10-11, 14-16.

Though the phrase “terms of use” is not in boldface type and is uncapitalized, it is underlined, in contrasting purple font, and the same size as the non-heading text on the page. Ferrell Decl. Ex. 1. It also matches the size and font of the other clickable links on the page. Id. It has the “[c]ustomary design elements denoting the existence of a hyperlink,” which “can alert a user that the particular text differs from the other plain text in that it provides a clickable pathway to another webpage.” Berman, 30 F.4th at 857. These visual markers for the “terms of use” hyperlink are conspicuous and put “the reasonable user on notice that they are agreeing to be bound” by the Terms. Keebaugh, 100 F.4th at 1021.

Rodriguez also argues that Wayfair should have included “signifiers of importance” admonishing customers to read the Terms. Opp’n at 17. But the cases Rodriguez cites refer to browsewrap agreements. Id. (citing Nguyen v. Barnes & Noble Inc., 763 F.3d 1171, 1177-78 (9th Cir. 2014); Long v. Provide Commerce, Inc., 200 Cal. Rptr. 3d 117, 125 (Ct. App. 2016)). As explained above, “no affirmative action is required by the website user to agree to the terms of a [browsewrap] contract other than his or her use of the website.” Nguyen, 763 F.3d at 1176 (quoting Van Tassell v. United Mktg. Grp., LLC, 795 F. Supp. 2d 770, 790 (N.D. Ill. 2011)). As Rodriguez acknowledges, however, in a

sign-in wrap agreement, such as the one at issue, customers must take an action, such as clicking on a button, to agree to the Terms. Opp’n at 6-8; see Keebaugh, 100 F.4th at 1014.

Finally, Rodriguez argues that the phrase “terms of use” is “not self-defining.” Opp’n at 17-18. But courts including the Ninth Circuit frequently enforce contracts that are linked from the hyperlinked phrase “terms of use.” E.g., Oberstein, 60 F.4th at 516-17; Keebaugh, 100 F.4th at 1021 n.6 (finding mutual assent even though the hyperlinked text stated “Terms of Use” but the linked contract at issue was titled “Terms of Service”).

#### **D. Unambiguous Manifestation of Assent**

The Court also finds that Rodriguez unambiguously manifested assent by clicking the “Create Account” button because the acknowledgment text “explicitly advised that the act of clicking” the button “will constitute assent” to the Terms. Chabolla, 129 F.4th at 1158.

Rodriguez argues that Wayfair cannot show her unambiguous manifestation of assent for two related reasons. Citing Chabolla, Rodriguez argues (1) that Wayfair failed to indicate that the “act of clicking” would constitute assent because the acknowledgment language beneath the “Create Account” button “does not refer to the ‘act of clicking[,]’” and (2) that the “Create a Password” heading “muddle[s]” the “meaning of the action button ‘Create Account’” because “[c]reating a password and creating an online account are not necessarily synonymous or equivalent to each other[.]” Opp’n at 23-25 (citing Chabolla, 129 F.4th at 1158).

Chabolla, however, is distinguishable. There, the assent process was spread “across three separate pages and [the] manifestation of assent [was] constructed from three different action buttons.” Chabolla, 129 F.4th at 1158. Each of those three separate pages had additional web page elements contributing to their ambiguity. Id. at 1157-58.

In Chabolla, on the first page of the assent process, there was both a “Continue” button and a “Sign up with Facebook” button underneath it, separated by the word “or.” Id. at 1157. The acknowledgment text was placed underneath the “Sign up with Facebook” button, such that the Ninth Circuit found that a “reasonably prudent user would likely click ‘Continue’ and read no further if she had no intention of using Facebook.” Id. The second page included the text, “[b]y signing up you agree to our Terms of Use and Privacy Policy,” but there was “no ‘sign up’ button.” Id. at 1158 (alteration in original). Instead, the only button was labeled “Continue.” Id. The third page included the acknowledgment text, “I agree to the Terms of Use and Privacy Policy,” but the page “did not indicate to the user what action would constitute assent to those terms and conditions.” Id. at 1158-59 (quoting Berman, 30 F.4th at 858).

Here, in contrast, there is only one page and one action button—the “Create Account” button. Ferrell Decl. Ex. 1. The “Create Account” button matches the acknowledgment language that states, “By creating an account, you agree to our privacy policy and terms of use.” Id. The page here is also “less crowded” than all three of the screens at issue in Chabolla. Chabolla, 129 F.4th at 1157. It is unambiguous that clicking on the “Create Account” button would result in creating an account, and the acknowledgment text explains that customers are bound by the Terms when they create an account. Ferrell Decl. Ex. 1.

Because Wayfair’s account creation page provided reasonably conspicuous notice of the Terms containing an arbitration provision, and Rodriguez unambiguously manifested assent to the Terms when she created an account, the Court finds that the parties entered into an agreement to arbitrate. Because the Court finds that a valid agreement to arbitrate existed upon account creation, the Court need not analyze Wayfair’s additional claim that Rodriguez again agreed to its Terms when she completed the purchase of the Product.

#### IV. CONCLUSION

For the foregoing reasons, Wayfair's Motion to Compel Arbitration is GRANTED, and the case is STAYED pending the outcome of the parties' arbitration. Rodriguez's Request for Judicial Notice of an unpublished California state court decision is DENIED as moot because the decision has now been ordered published. Dkt. 16. The clerk is ordered to administratively close this case. The Court orders that, within two weeks of the completion of arbitration, the parties must file a joint status report. If the arbitration is not completed by May 4, 2026, the parties must file a joint status report beginning on that date and continuing every four months until the arbitration is completed. Failure to file a required joint status report may result in the dismissal of this action without prejudice.

IT IS SO ORDERED.

Date: September 17, 2025



---

Dale S. Fischer  
United States District Judge