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6

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

11 CHARLES WELCH, individually and
12 on behalf of all others similarly
13 situated,

14 Plaintiff,

15 v.

16 NORTH ATLANTIC IMPORTS, LLC
17 d/b/a BLACKSTONE PRODUCTS,
18 and DOES 1–10,

19 Defendants.
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Civil Action No.: 2:25-cv-07106

**CLASS ACTION COMPLAINT
FOR DAMAGES**

**ACTION SEEKING STATEWIDE
OR NATIONWIDE RELIEF**

DEMAND FOR JURY TRIAL

1 Plaintiff Charles Welch, individually and on behalf of all others similarly
2 situated, brings this Class Action Complaint against Defendant North Atlantic
3 Imports, LLC d/b/a Blackstone Products (“Defendant” or “Blackstone”) and makes
4 the following allegations based upon information and belief, except as to allegations
5 specifically pertaining to Plaintiff, which are based on personal knowledge.

6 **NATURE OF THE ACTION**

7 1. This is a case concerning deceptive representations and omissions made
8 by Defendant through its misleading and unlawful pricing, sales, and discounting
9 practices on its websites, which directly violate a California statute and deceive the
10 reasonable consumer.

11 2. Defendant Blackstone sells and markets grills and other cookware
12 products online through the Blackstone website, <https://blackstoneproducts.com/>.

13 3. Specifically, Blackstone lists many of its products as having continuous
14 discounts ranging between \$50–\$200 off. Moreover, these discounts are actually false
15 discounts intended to induce customers into purchasing their products, as the products
16 are never actually sold at the higher strikethrough reference prices listed next to the
17 “sale” price.

18 4. The products at issue are all goods that have been offered at any time on
19 Blackstone’s website, at a sale or discounted price from a supposedly higher reference
20 price (the “Products”).

21 5. Defendant’s website lists various items on sale or discount, and presents
22 a stricken supposedly former or prevailing market price next to the “sale” price.
23 However, the former or prevailing market price listed next to the sales price is not
24 actually the former or prevailing market price at which the product was sold in the
25 previous three months. Instead, it is a false or inflated price used to trick consumers
26 into believing they are receiving a discount on their purchase. It is false because the
27 item has not been listed for sale or sold on the website in the previous three months
28 at the listed former price.

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

5 7. Section 17501 of California’s False Advertising Law provides that “[n]o
6 price shall be advertised as a former price ... unless the alleged former price was the
7 prevailing market price ... within three months next immediately preceding” the
8 advertisement. Cal. Bus. & Prof. Code § 17501. Therefore, the statute specifically
9 prohibits the type of fake discount employed by Defendant, where the advertised
10 former price is not the prevailing price during the specified timeframe.

11 8. Upon investigation, all or nearly all of the reference prices on the website
12 are false and misleading. Specifically, they are not former prevailing prices at which
13 the products were offered on the websites, or the prevailing market prices, during the
14 previous three (3) months.

15 9. Plaintiff—like hundreds of thousands of other customers across the
16 United States—fell prey to Defendant’s false, deceptive, and misleading discount
17 scheme. As a result, Defendant has earned millions of dollars selling products at
18 misrepresented discounts that do not actually exist.

19 10. When purchasing the Products, Plaintiff relied on Defendant’s
20 misrepresentations that the Products were on sale and were previously sold at the
21 former strikethrough price listed next to the sale price. However, these products were
22 not actually sold at the former or regular price listed on the website within the previous
23 three months before the purchase. Therefore, the discount was false.

24 11. Defendant’s conduct violated and continues to violate the California
25 Unfair Competition Law (“UCL”), Cal. Bus. & Prof. Code §§ 17200, *et seq.*;
26 California’s False Advertising Law (“FAL”), Cal. Bus. & Prof. Code §§ 17500, *et*
27 *seq.*; and the California Consumer Legal Remedies Act (“CLRA”), Cal. Civ. Code §§
28

1 1750, *et seq.* Defendant's conduct also constitutes negligent misrepresentation, and
2 has unjustly enriched Defendant by the sale of these Products.

3 12. Accordingly, Plaintiff brings this civil action to put an end to
4 Defendant's illegal conduct. Through this class action lawsuit, Plaintiff seeks
5 monetary damages, restitution, and declaratory and injunctive relief on behalf of the
6 proposed Class.

7 **PARTIES**

8 13. Plaintiff Charles Welch is a citizen and resident of Los Angeles County,
9 California.

10 14. Defendant North Atlantic Imports, LLC is a Utah limited liability
11 company and is headquartered in Illinois. Defendant's limited liability company
12 members are all Utah residents. Defendant is an online retailer that sells grills,
13 griddles, and other cookware products in California and across the United States.

14 15. Defendants Does 1–10 were responsible in some manner for the injuries
15 and damages caused to Plaintiff and the Class, but their identities and/or roles are not
16 yet known.

17 **JURISDICTION AND VENUE**

18 16. This Court has subject matter jurisdiction over this action pursuant to 28
19 U.S.C. § 1332(d)(2) because this is a class action in which (1) there are at least 100
20 members, (2) the matter in controversy exceeds \$5,000,000 exclusive of interest and
21 costs, and (3) Plaintiff and members of the putative Class are citizens of a state that is
22 different from the states in which Defendant are citizens.

23 17. This Court has personal jurisdiction over Defendant because it has
24 contacts with California that are so continuous and systematic that they are essentially
25 at home in this state. Defendant sold Products to consumers in California, including
26 Plaintiff. Defendant regularly conducts and solicits business in California, provides
27

1 products to persons in the State of California, maintains an interactive commercial
2 website, offers to does ship products to California, allows customers in California to
3 order products, and derives substantial revenue from customers in California.

4 18. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b) because a
5 substantial part of the events or omissions giving rise to Plaintiff's and the Class
6 Members' claims occurred in this District, and Defendant is subject to the Court's
7 personal jurisdiction.

8 **BACKGROUND FACTS**

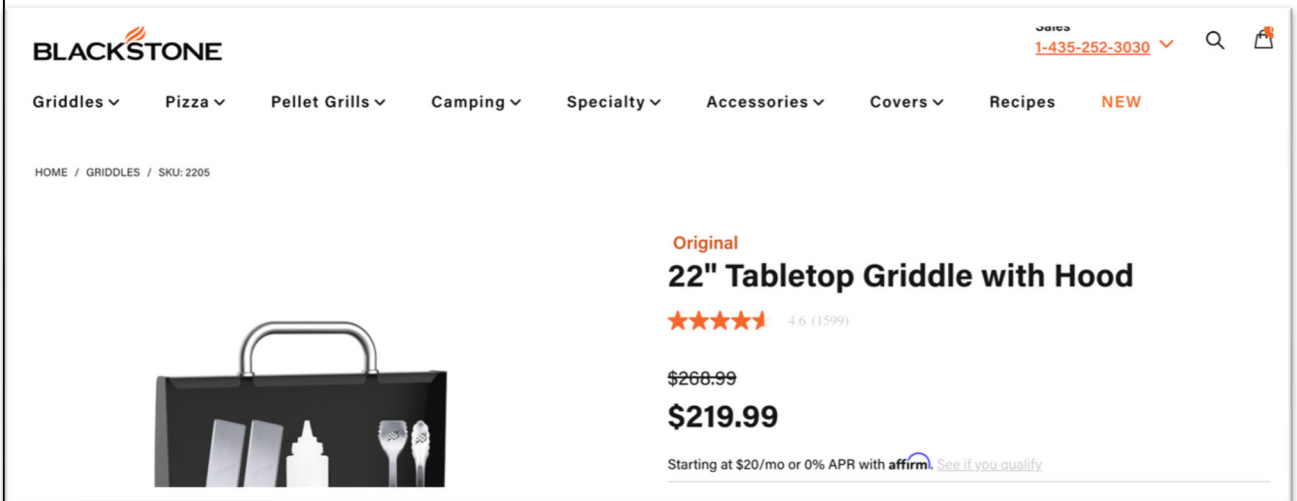
9 19. Defendant markets and sells grills, griddles, and other cookware
10 products through its website.

11 20. Defendant, through its website, has sold hundreds of thousands of units
12 of merchandise to customers in California and nationwide.

13 **I. Blackstone's Fake Discount Scheme**

14 21. Defendant creates the false impression that its Products' regular or
15 former prices are higher than they truly are.

16 22. On any given day, Products on Defendant's website are represented as
17 being discounted from a higher reference price. On individual listing pages and
18 category listing pages, the supposed mark-downs are represented to consumers by
19 prominently displaying a "crossed-out" or strikethrough reference price next to a sale
20 price and depicting the sale price in bold text adjacent to the reference price. Example
21 screenshots are provided below:
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23. The above image is an example from Defendant's website that shows how it consistently lists its false discounts on the website across numerous products.

24. The below sections describe further the types of deceptive sales schemes instituted by Defendant on its website.

25. These pricing and advertising practices are deceptive and pressure consumers into purchasing products from Defendant at an inflated price. Defendant intends to mislead consumers into believing that they are getting a bargain by buying products from its website on sale and at a substantial and deep discount. For most, if not all, products listed at a discount, Defendant does not offer or sell the products on the website at the reference price for the three months immediately preceding the listing of the sale. Therefore, the reference price is artificially inflated and the advertised discounts are deceiving.

A. Plaintiff Welch Purchased a Product that Was Falsely Advertised as Having a Discount.

26. On or around August 30, 2024, Plaintiff purchased a 22" Griddle with Hard Cover and Carry Bag (the "Product") for \$179.10. He made this purchase while living in Los Angeles County, California.

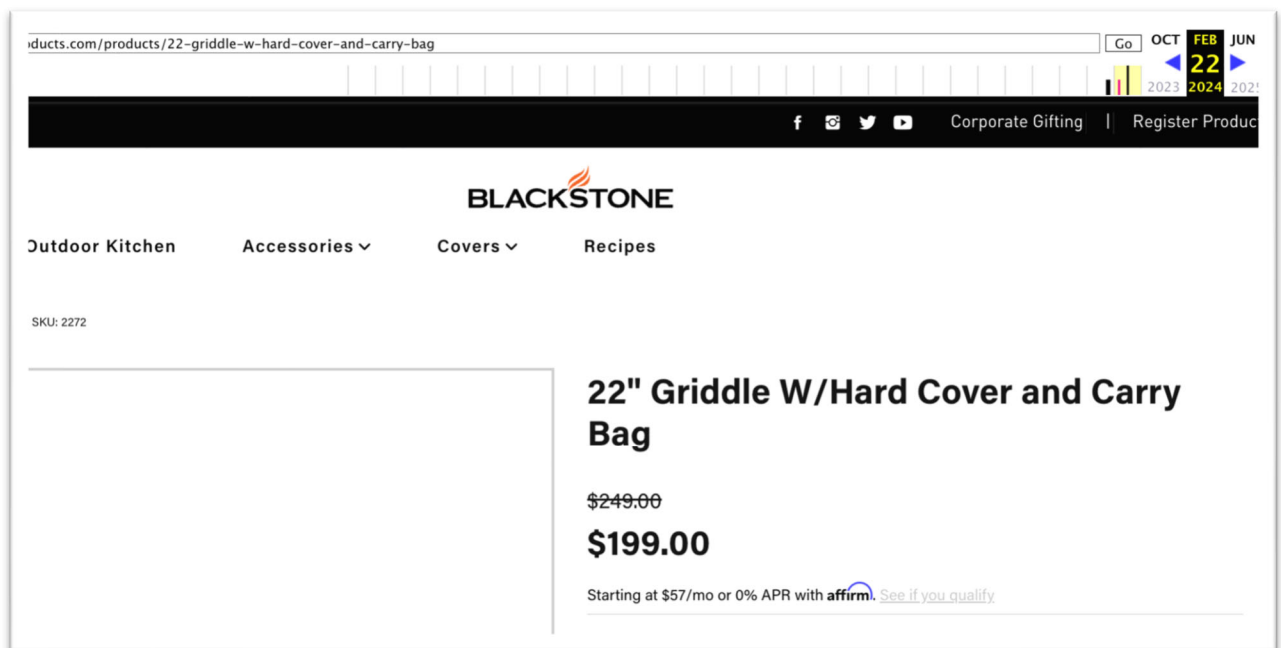
27. At the time of purchase, Blackstone advertised the Product as having a regular or former sale price of \$249.00, and a list price of \$199 purporting to be a

1 discount. When he made the purchase, Plaintiff also received an additional discount
2 of \$19.90 from the \$199 list price, enabling him to purchase the Product for \$179.10.

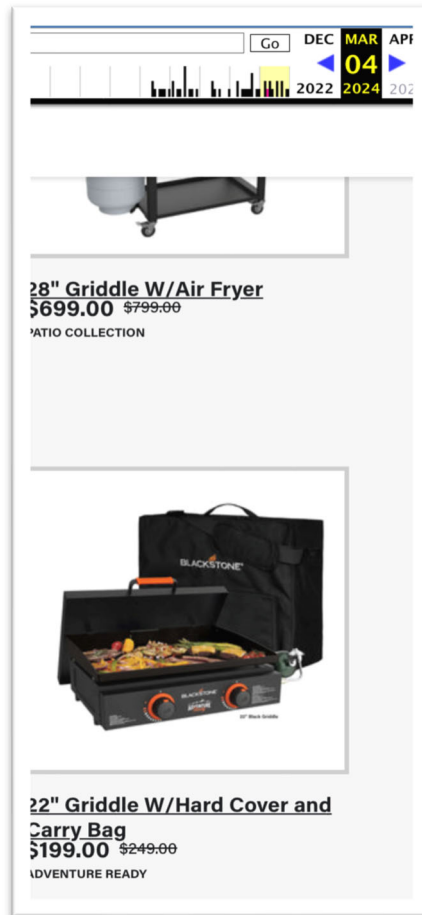
3 28. At the time of purchase, Defendant represented on its website that this
4 product was on sale at a discount, with a regular or former price of \$249.00, listed as
5 a strikethrough reference price next to the Product. However, this reference price was
6 false, as Blackstone did not actually list or sell the Product for \$249.00 for at least the
7 three previous months prior to Plaintiff's purchase.

8 29. The falsity of the reference price is demonstrated by the images below:

9
10 February 22, 2024



March 4, 2024



May 24, 2024

MAR

MAY

JUL


24

2023

2024

2025

NEW ▾




Ask an Expert
1-435-252-3030 ▾


28" Omnivore Griddle W/Hood Bundle

\$384.00 ~~\$449.00~~

Select 28" Griddle W/Cabinets

\$1,499.00





SOLD OUT

22" Griddle W/Hard Cover and Carry Bag

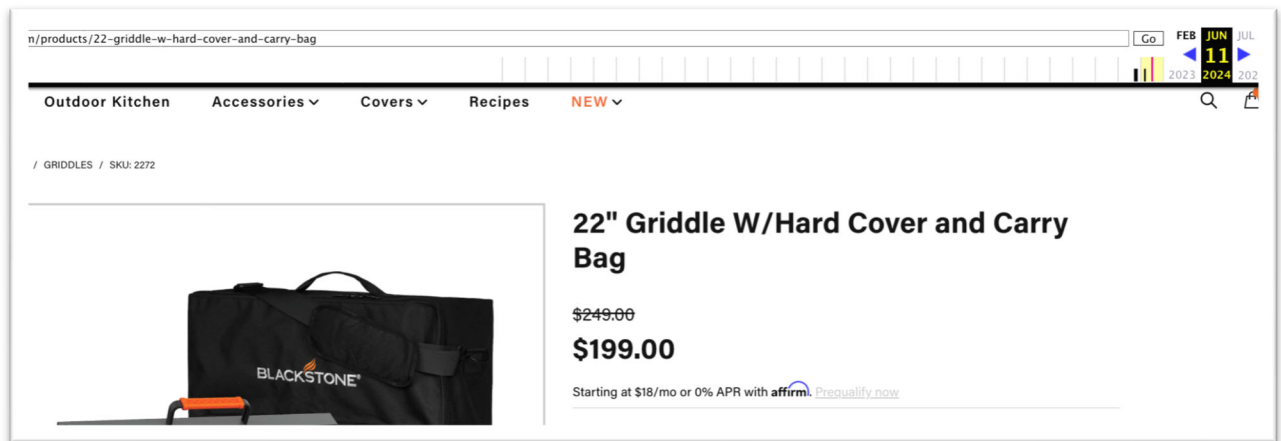
\$199.00 ~~\$249.00~~

ADVENTURE READY

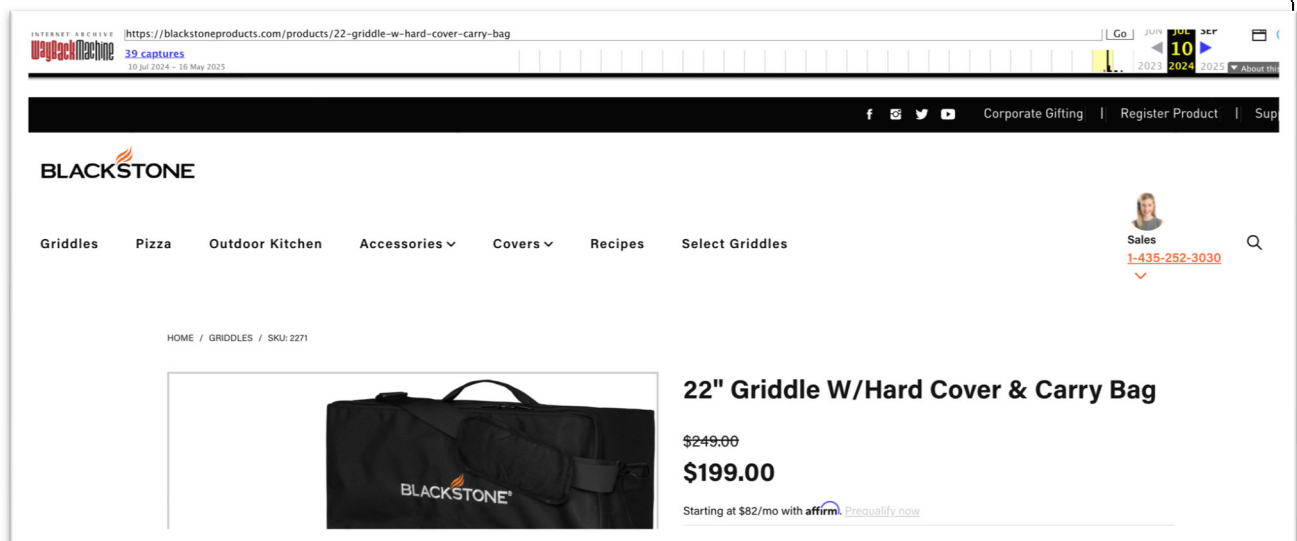
Adventure Ready 20x14" Camping Griddle

\$179.00 ~~\$219.00~~

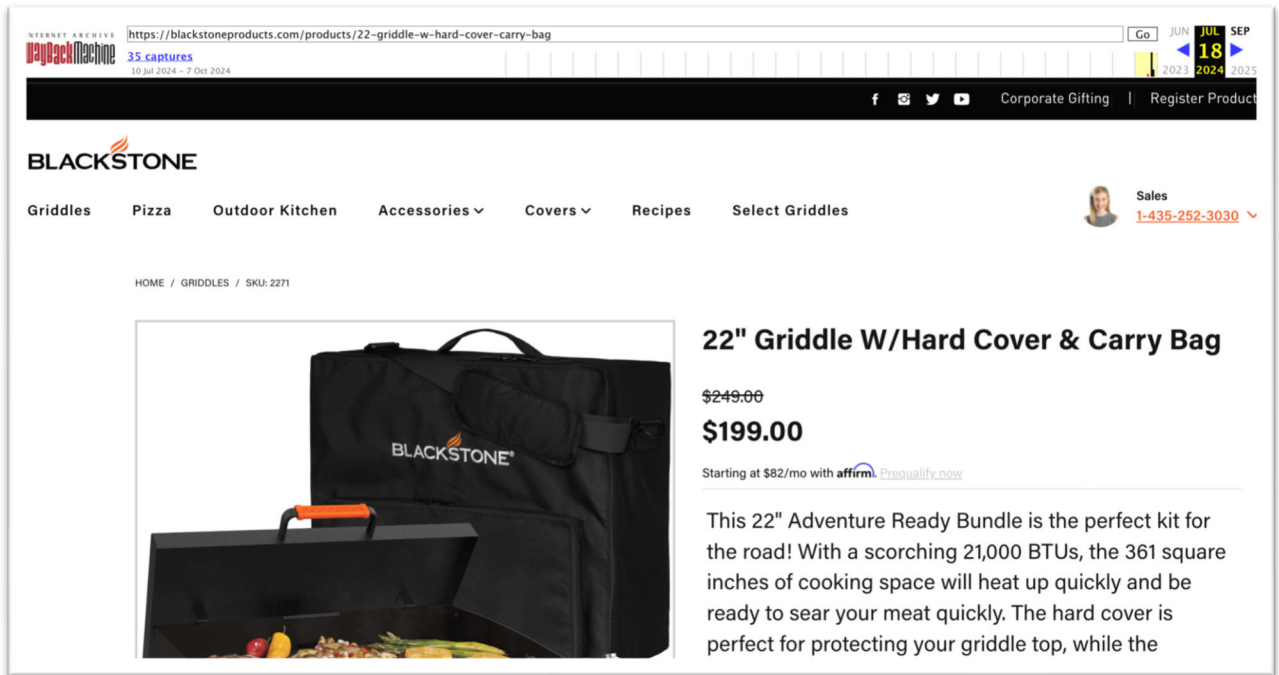
June 11, 2024



July 10, 2024



July 18, 2024



30. As evidenced by Defendant's own website, the 22" Griddle W/Hard Cover & Carry Bag was not listed or sold at the strikethrough reference price of \$249.00 within the three months (and much longer) prior to Plaintiff's purchase.

31. In fact, the same reference price was listed next to the Product from at least February 2024 to the time Plaintiff purchased the Product in August 2024.

32. Following Plaintiff's purchase, Defendant continued to list the Product at the same false discount with the same strikethrough reference price for the next four months, until they received Plaintiff's CLRA notice letter in December 2024:

September 1, 2024

Go JUL SEP NOV 01 Next cap

2023 2024 2025

\$1,499.00

22" Griddle W/Hard Cover & Carry Bag
~~\$249.00~~
\$199.00
 ADVENTURE READY

22" Omnivore Flex-Fold Griddle
~~\$359.00~~
\$299.00
 ON THE GO

Adventure Ready 20x14" Camping Griddle
~~\$219.00~~
\$179.00

SOLD OUT SOLD OUT

September 6, 2024

Internet Archive Wayback Machine 39 captures 10 Jul 2024 - 16 May 2025

Go JUL SEP OCT 06

2023 2024 2025

Corporate Gifting | Register Product | Support

BLACKSTONE

Griddles Pizza Outdoor Kitchen Accessories Covers Recipes Select Griddles

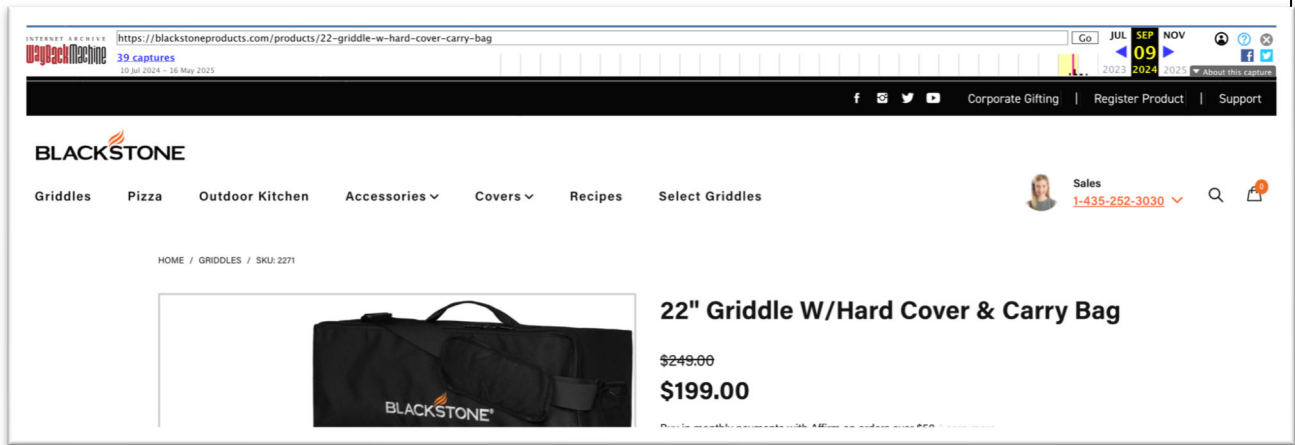
HOME / GRIDDLES / SKU: 2271

22" Griddle W/Hard Cover & Carry Bag

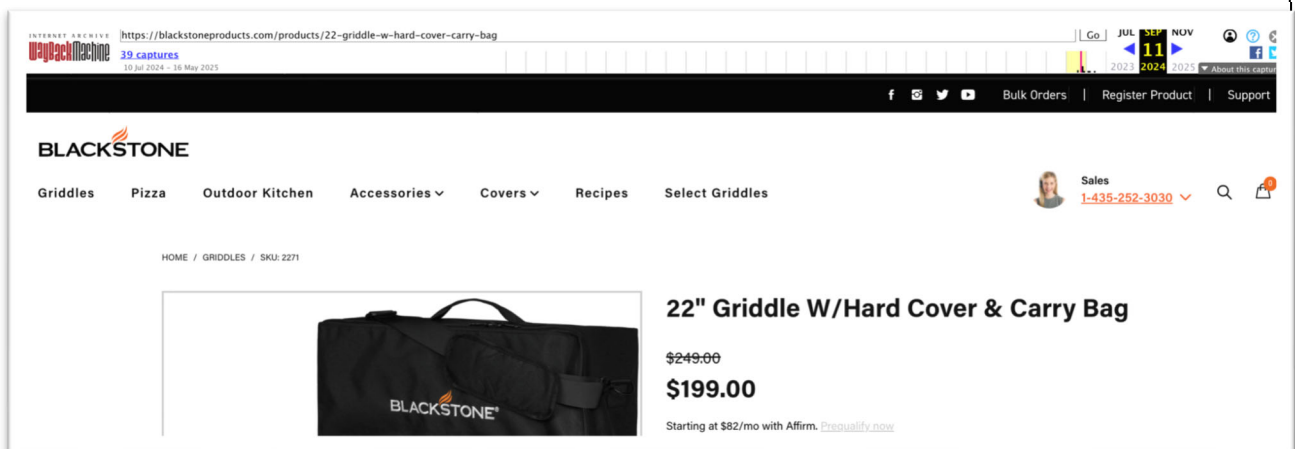
~~\$249.00~~
\$199.00

Starting at \$82/mo with [affirm](#). [Prequalify now](#)

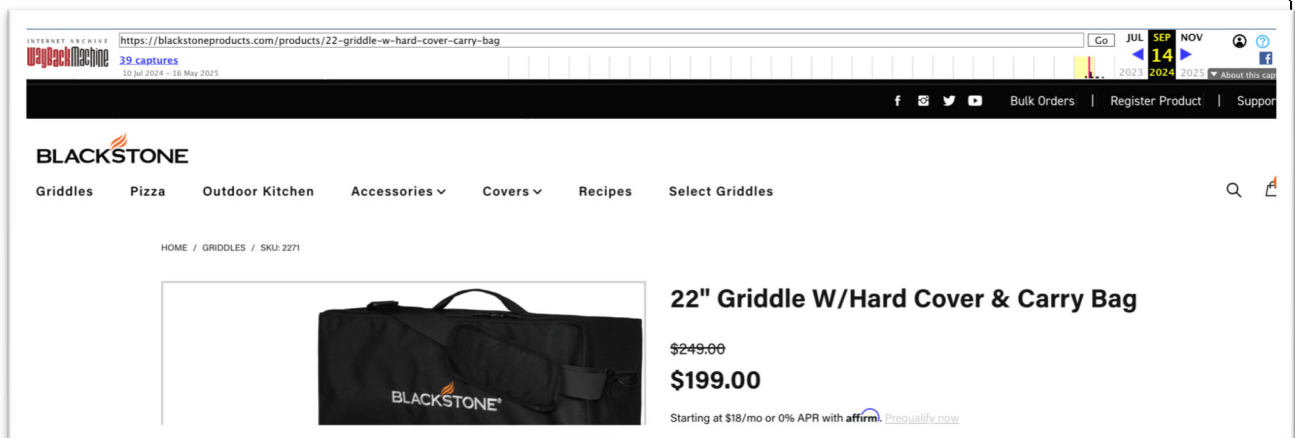
September 9, 2024



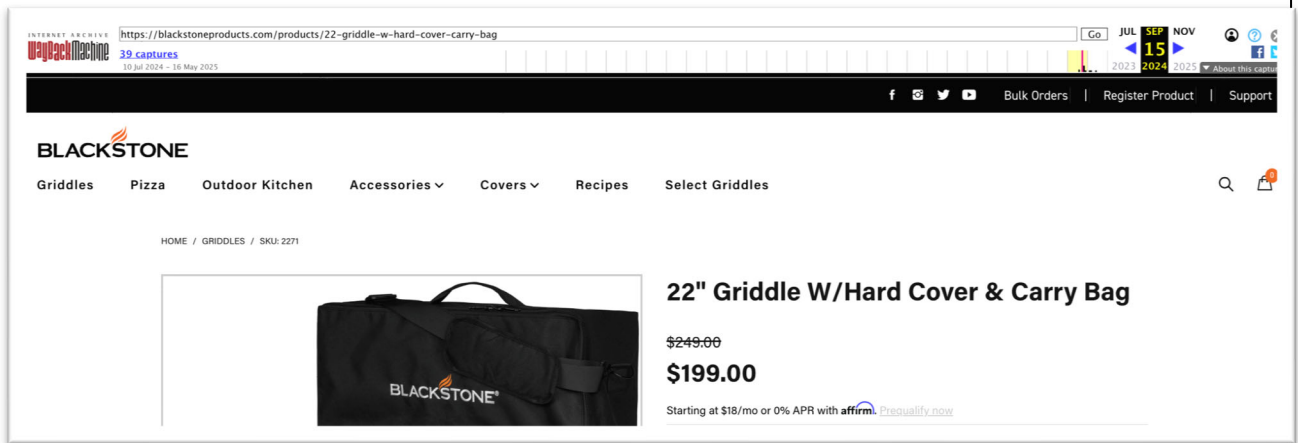
September 11, 2024



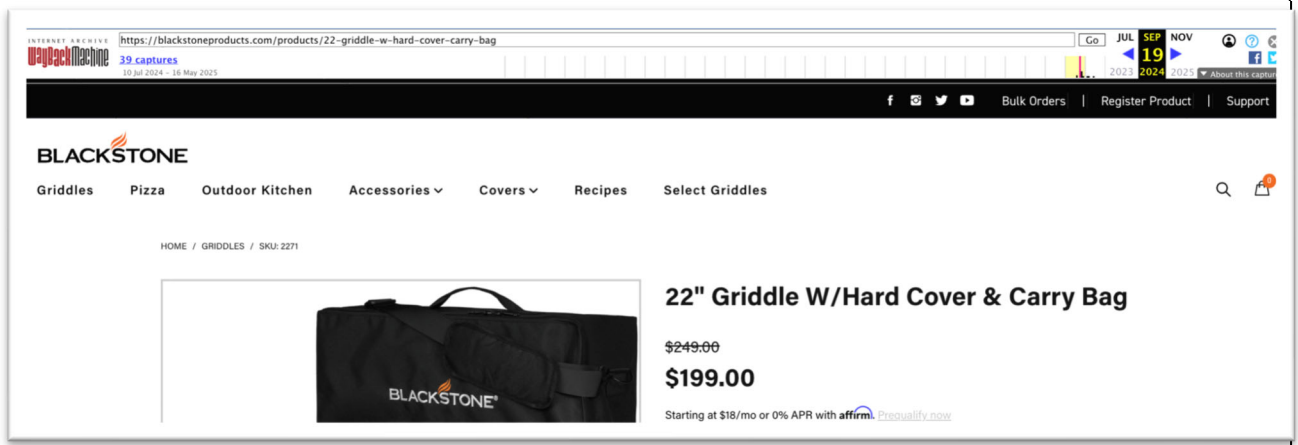
September 14, 2024



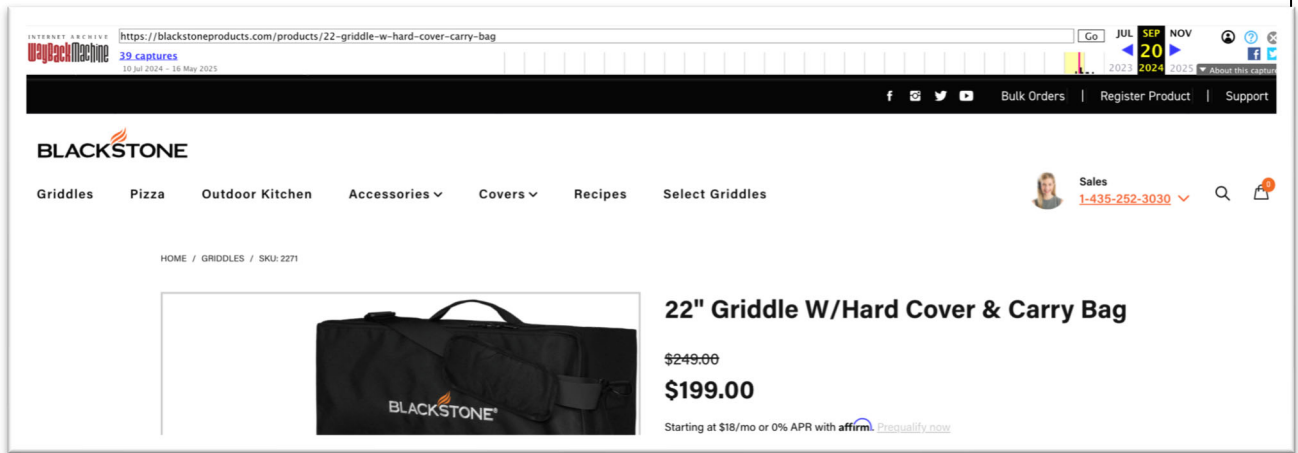
September 15, 2024



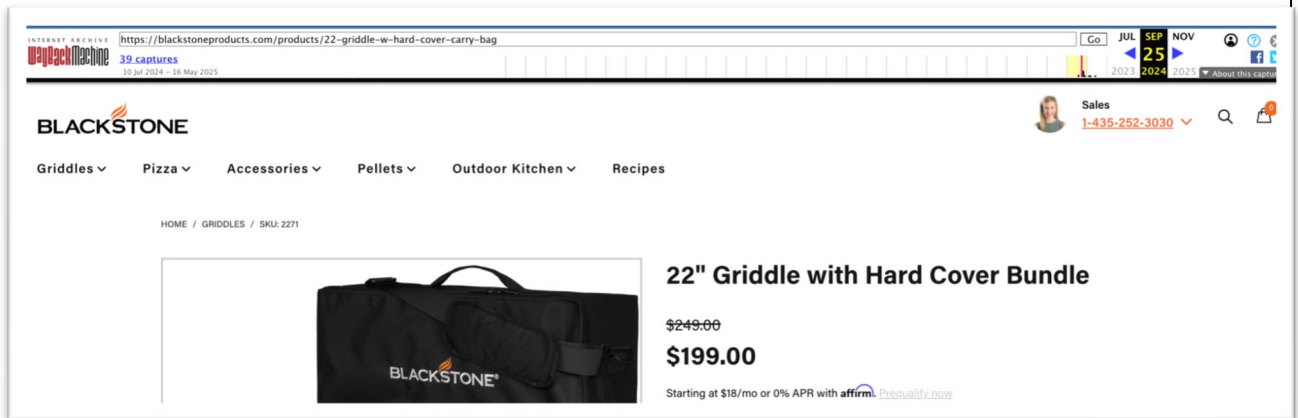
September 19, 2024



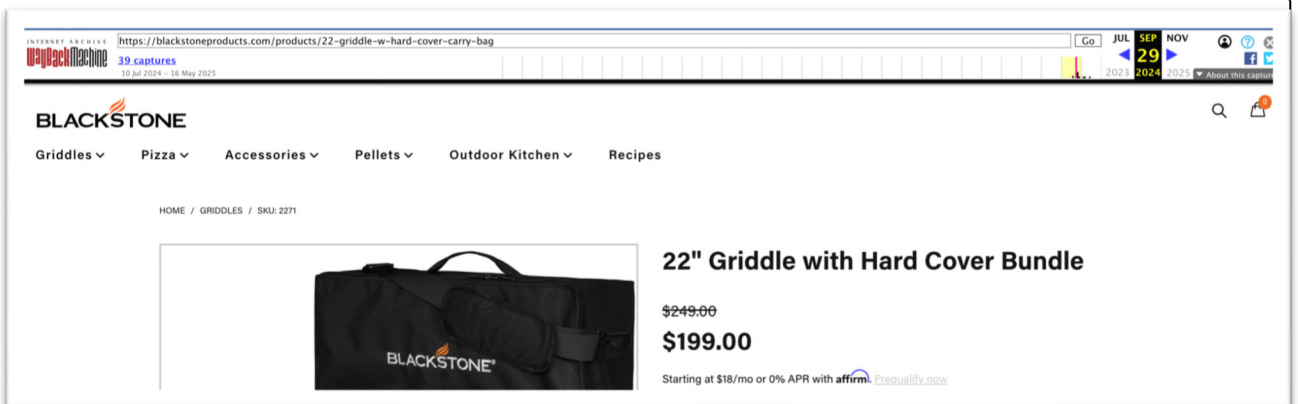
September 20, 2024



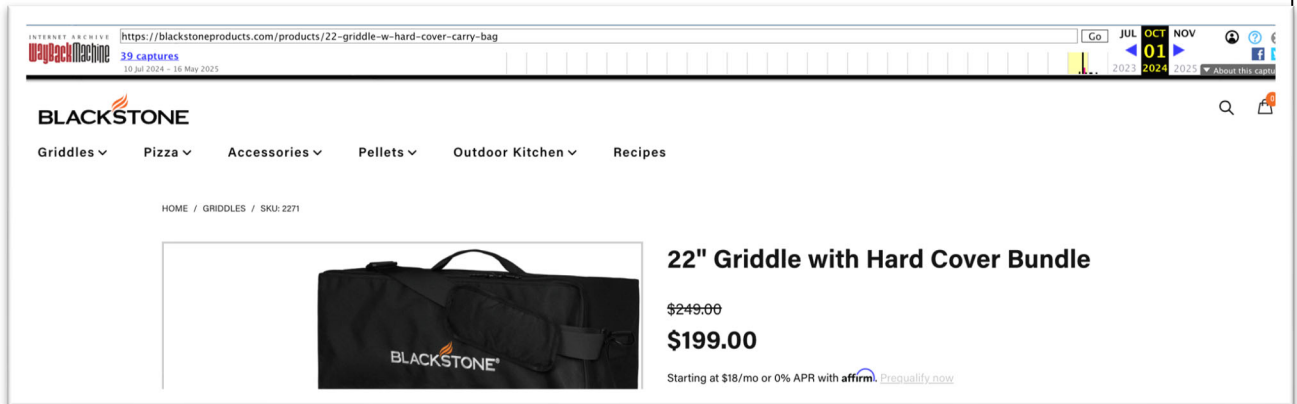
September 25, 2024



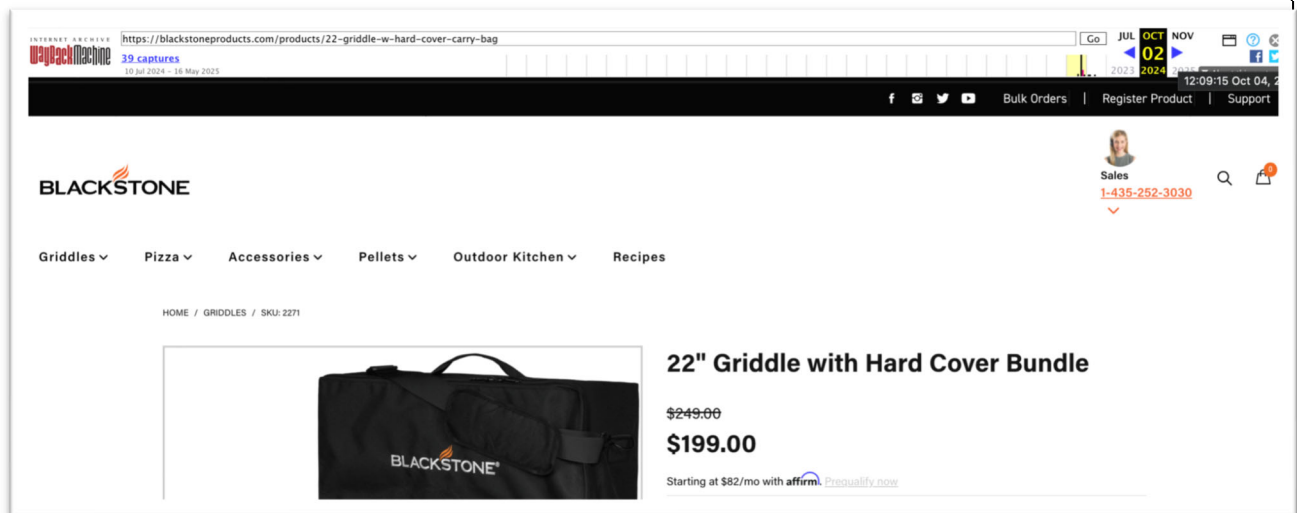
September 29, 2024



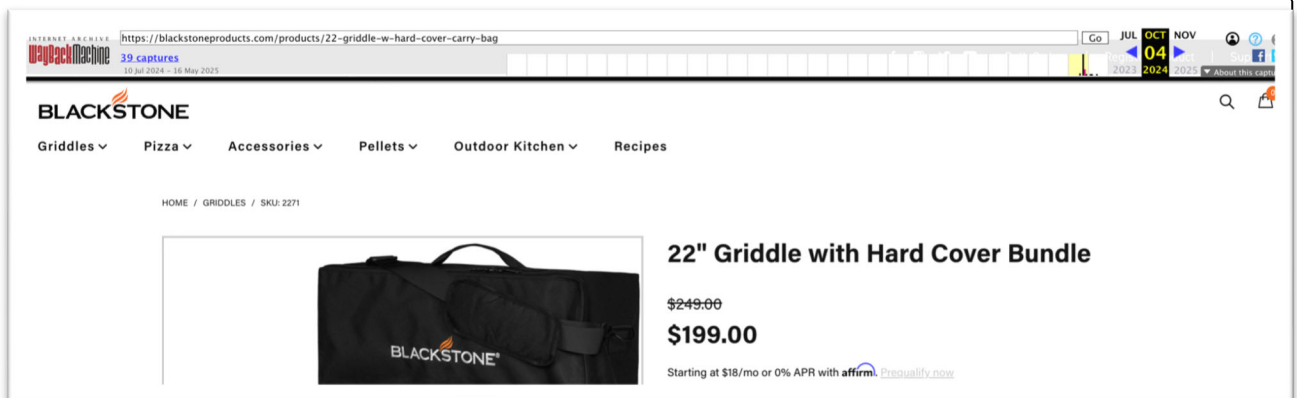
October 1, 2024



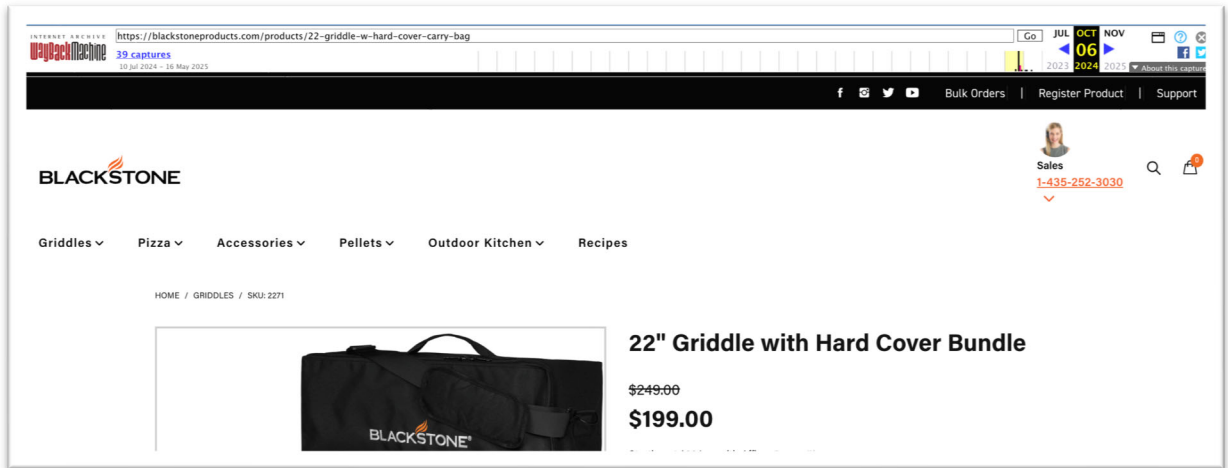
October 2, 2024



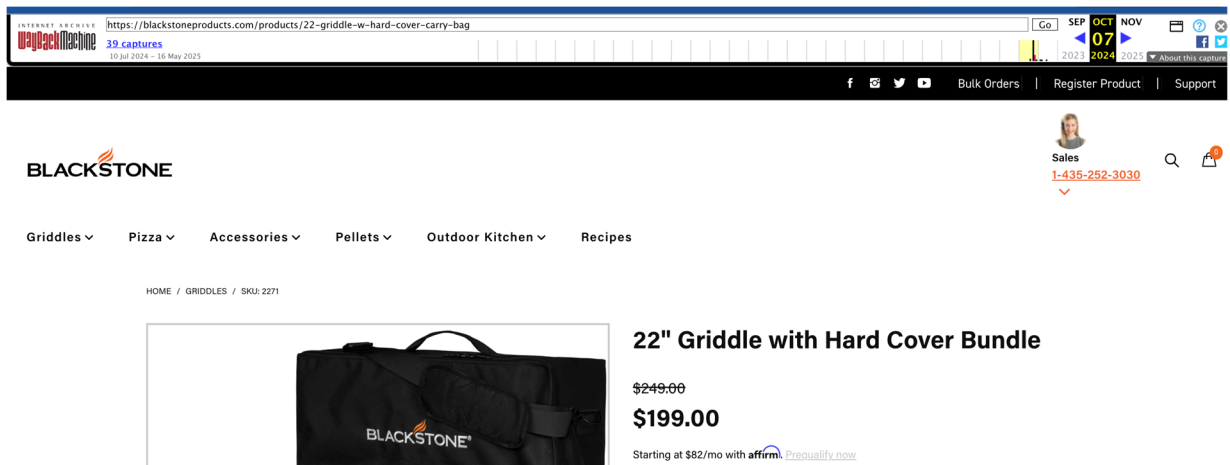
October 4, 2024



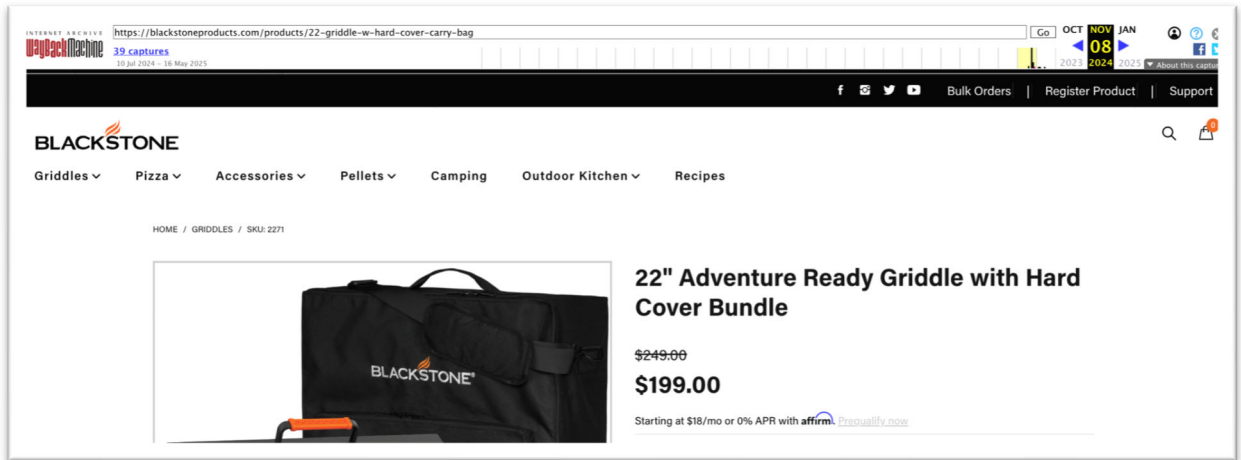
October 6, 2024



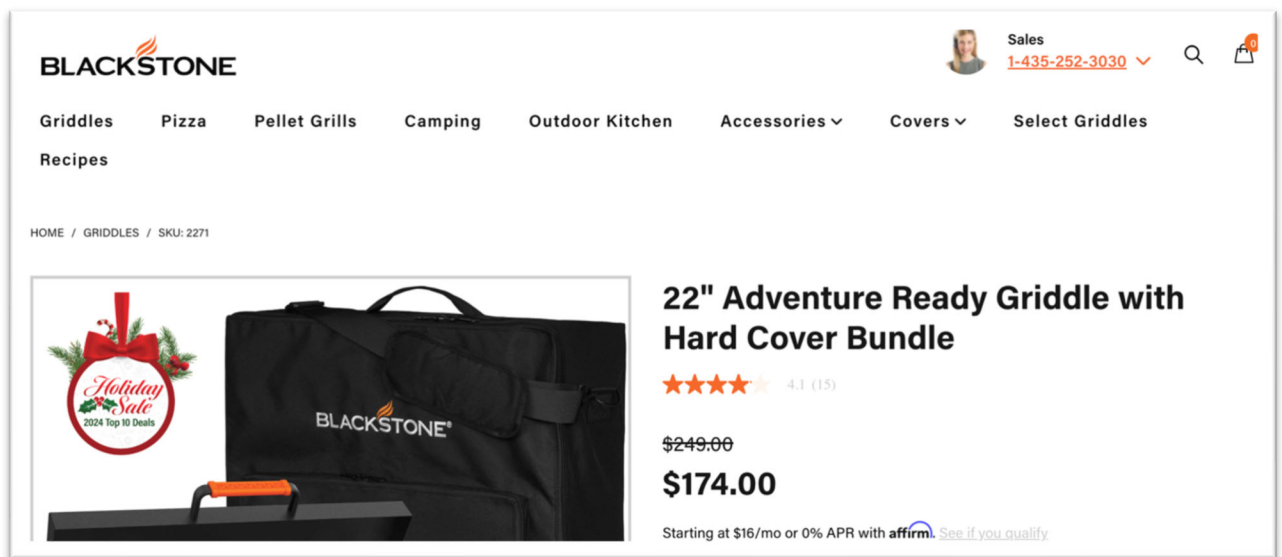
October 7, 2024



November 8, 2024



December 13, 2024



33. Defendant represented that the Product had a certain regular or former price (the reference price) and that Plaintiff was receiving a substantial discount.

34. Plaintiff relied on Defendant's representations on the website that the Products were being offered at a discount and that previously they were listed and sold on the website at the stated reference price within the three months immediately preceding Plaintiff Welch's purchase.

1 35. The above-listed Product Plaintiff purchased was not substantially
2 marked down or discounted, and any discount he was receiving had been grossly
3 exaggerated

4 36. For at least the 90-day period prior to Plaintiff's purchase, and even
5 months and years more, Defendant did not list or sell any of the Products for sale on
6 its website at the reference prices.

7 37. Plaintiff would not have purchased the Product, or would not have paid
8 as much as he did, had Defendant been truthful. Plaintiff was persuaded to make his
9 purchase because of the misleading sale based on false reference prices.

10 38. Plaintiff continues to be interested in purchasing products like that
11 offered by Defendant at discounted prices, but he will be unable to trust and rely on
12 Defendant's advertising, so will not purchase the products from Defendant.

13 39. Absent injunctive relief, Plaintiff cannot know whether Defendant's
14 former and regular prices represent honest prices at which the products were listed on
15 the website within at least the three months prior to their purchase, or if the
16 Defendant's sales are perpetual and misleading.

17 40. Upon information and belief, Defendant enacts the same false discount
18 scheme with various Products listed on its website.

19 ***B. The Reference Prices Are Not the Prevailing Market Price of the Products,***
20 ***Including During the Rolling 90-day Period Prior to the Offering and/or***
21 ***Purchase***

22 41. Separately, the reference prices advertised on Defendant's website are
23 not the prevailing market prices of the Products.

24 42. Some of the Defendant's discounted products are concurrently sold on
25 the website and through other retailers. For these products, on information and belief,
26 Defendant's advertised reference prices are higher than the prevailing market prices
27 for the identical products. Because Defendant consistently sells the products at issue
28 at prices significantly lower than its advertised former prices, there is no reasonable

1 basis to believe that Defendant consistently sells its products at prices below the
 2 prevailing market prices. Economic principles dictate that in competitive markets the
 3 actual prices offered by vendors selling the same item tend to converge to the market
 4 price.

5 43. Upon information and belief the Products that are sold online are
 6 predominantly sold by Defendant on its website. To the extent the Products are sold
 7 through a third-party seller, the third-party seller's prices for the Product are not the
 8 prevailing market price. Furthermore, Defendant has an interest to, and upon
 9 information and belief does, exert control over the pricing of the sales of its products.

10 44. On information and belief, Defendant's advertised reference prices are
 11 unsubstantiated and based on an undisclosed formula, or are outdated, or are
 12 cherry-picked and thus not representative of the prevailing market prices. On
 13 information and belief, Defendant does not independently verify that the reference
 14 prices are the prevailing market prices at which the Products are listed for sale by
 15 Blackstone or other retailers for a substantial period of time in substantial quantities.
 16 On information and belief, Defendant does not update the reference prices on a daily
 17 basis.

18 **II. Research Shows That Reference Price Advertising Influences Consumer** 19 **Behavior and Perceptions of Value**

20 45. The effectiveness of Defendant's deceitful pricing scheme is backed by
 21 longstanding research.

22 46. "By creating an impression of savings, the presence of a higher reference
 23 price enhances subjects' perceived value and willingness to buy the product."¹ Thus,
 24 "empirical studies indicate that, as discount size increases, consumers' perceptions of
 25 value and their willingness to buy the product increase, while their intention to search
 26 _____

27 ¹ Dhruv Grewal & Larry D. Compeau, *Comparative Price Advertising: Informative*
 28 *or Deceptive?*, 11 J. Pub. Pol'y & Mktg. 52, 55 (Spring 1992).

1 for a lower price decreases.”² For this reason, the Ninth Circuit has held that a plaintiff
2 making a claim of deceptive pricing (similar to the claim at issue here) has standing
3 to pursue his claim against the Defendant retailer. In doing so, the Court observed that
4 “[m]isinformation about a product’s ‘normal’ price is . . . significant to many
5 consumers in the same way as a false product label would be.” *Hinojos v. Kohl’s*
6 *Corp.*, 718 F.3d 1098, 1106 (9th Cir. 2013).

7 47. “[D]ecades of research support the conclusion that advertised reference
8 prices do indeed enhance consumers’ perceptions of the value of the deal.”³
9 According to academic studies, “[c]onsumers are influenced by comparison prices
10 even when the stated reference prices are implausibly high.”⁴

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

14 49. Consumers that are presented with discounts are substantially more
15 likely to make the purchase. “Nearly two-thirds of consumers surveyed admitted that
16 a promotion or a coupon often closes the deal, if they are wavering or are undecided
17 on making a purchase.”⁵ And, “two-thirds of consumers have made a purchase they
18 weren’t originally planning to make solely based on finding a coupon or discount,”
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23 ² *Id.* at 56.

24 ³ Dhruv Grewal & Larry D. Compeau, *Comparative Price Advertising: Believe It or*
25 *Not*, J. of Consumer Affairs, Vol. 36, No. 2, at 287 (Winter 2002).

26 ⁴ *Id.*

27 ⁵ Khalid Saleh, *How Discounts Affect Online Consumer Buying Behavior*, Invesp,
28 June 16, 2024, <https://www.invespcro.com/blog/how-discounts-affect-online-consumer-buying-behavior/> (last visited September 11, 2024).

1 while “80% [of consumers] said they feel encouraged to make a first-time purchase
2 with a brand that is new to them if they found an offer or discount.”⁶

3 50. Another academic journal explains that “[r]eference price ads strongly
4 influence consumer perceptions of value ... Consumers often make purchases not
5 based on price but because a retailer assures them that a deal is a good bargain. This
6 occurs when ... the retailer highlights the relative savings compared with the prices
7 of competitors ... [T]hese bargain assurances (Bas) change consumers’ purchasing
8 behavior and may deceive consumers.”⁷

9 51. “[R]esearch has shown that retailer-supplied reference prices clearly
10 enhance buyers’ perceptions of value” and “have a significant impact on consumer
11 purchasing decisions.”⁸

12 52. “[R]eference prices are important cues consumers use when making the
13 decision concerning how much they are willing to pay for the product.”⁹ This study
14
15
16

17
18 ⁶ RetailMeNot Survey: Deals and Promotional Offers Drive Incremental Purchases
19 Online, Especially Among Millennial Buyers PR NEWswire (April 25, 2018),
20 [https://www.prnewswire.com/news-releases/retailmenot-survey-deals-and-
21 promotional-offers-drive-incremental-purchases-online-especially-among-
22 millennial-buyers-300635775.html#:~:text=In%2DLanguage%20News-
23 .RetailMeNot%20Survey%3A%20Deals%20and%20Promotional%20Offers%
24 20Drive%20Incremental%20Purchases%20Online,finding%20a%20coupon%20or
25 %20discount](https://www.prnewswire.com/news-releases/retailmenot-survey-deals-and-promotional-offers-drive-incremental-purchases-online-especially-among-millennial-buyers-300635775.html#:~:text=In%2DLanguage%20News-.RetailMeNot%20Survey%3A%20Deals%20and%20Promotional%20Offers%20Drive%20Incremental%20Purchases%20Online,finding%20a%20coupon%20or%20discount). (last visited September 11, 2024).

26 ⁷ Joan Lindsey-Mullikin & ross D. Petty, *Marketing Tactics Discouraging Price
27 Search: Deception and Competition*, 64 J. of Bus. Research 67 (January 2011).

28 ⁸ Praveen K. Kopalle & Joan Lindsey-Mullikin, *The Impact of External Reference
Price On Consumer Price Expectations*, 79 J. of Retailing 225 (2003).

⁹ Jerry B. Gotlieb & Cyndy Thomas Fitzgerald, *An Investigation Into The Effects of
Advertised References Prices On the Price Consumers Are Willing To Pay For the
Product*, 6 J. of App’d Bus. Res. 1 (1990).

1 also concluded that “consumers are likely to be misled into a willingness to pay a
2 higher price for a product simply because the product has a higher reference price.”¹⁰

3 53. Accordingly, research confirms that deceptive advertising through false
4 reference pricing is intended to, and does, influence consumer behavior by artificially
5 inflating consumer perceptions of an item’s value and causing consumers to spend
6 money they otherwise would not have, purchase items they otherwise would not have,
7 and/or purchase products from a specific retailer.

8 ***A. Consumers Suffered Harm***

9 54. Based on Defendant’s advertisements, reasonable consumers would
10 expect that the listed regular prices are the regular prices at which Defendant usually
11 sells its Products.

12 55. Reasonable consumers would also expect that, if they purchase during
13 the sale, they will receive an item whose regular or former price is the advertised
14 regular or former price and that they will receive the advertised discount from the
15 regular or former purchase price

16 56. Plaintiff and consumers paid a “price premium” for the Products. If the
17 reference prices were omitted from the product listings, Plaintiff would not have
18 purchased the Products.

19 57. Also, as further described above, Plaintiff and consumers are more likely
20 to buy the Products if they believe that the product is on sale and that they are getting
21 Products with a higher regular or former price at a substantial discount.

22 58. Thus, Defendant’s advertisements harm consumers by inducing them to
23 make purchases based on false information. In addition, by this same mechanism,
24 Defendant’s advertisements artificially increase consumer demand for Defendant’s
25 Products. This puts upward pressure on the prices that Defendant can charge for its
26

27
28 ¹⁰ *Id.*

1 Products. As a result, Defendant can charge a price premium for its Products that it
2 would not be able to charge absent the misrepresentations described above.

3 59. Therefore, Defendant's Products not only have a market value lower than
4 the promised regular or former price; the value of the Products is also lower than the
5 "sale" price. By using false reference pricing and false limited time sales, Defendant
6 artificially drives up demand for the Products and by extension drives up the price of
7 the Products. As a result, consumers were harmed because they received a product
8 worth less than the price paid. Reasonable consumers would not have paid the prices
9 charged had they known that products were rarely, if ever, offered for sale on the
10 website at the reference prices.

11 60. An example illustrates this point. Assume a company knows a product
12 will sell in the marketplace at \$30. But to increase revenue, the company advertises
13 the product as having a "regular" price of \$100 and being on "sale" at 60% off (i.e.,
14 \$60 off). Because consumers value products based on the regular price, and a sale
15 conveys additional savings, the company can sell that \$30 product for \$40. Defendant
16 has done so.

17 **III. Defendant's Deceptive Pricing Practices Violate Federal and California** 18 **State Law**

19 61. The Federal Trade Commission Act ("FTCA") prohibits "unfair or
20 deceptive acts or practices in or affecting commerce." 15 U.S.C. § 45(a)(1). Under 16
21 C.F.R. § 233.1, which is titled Former Price Comparisons, the FTC prohibits such
22 misleading price comparisons as the ones employed by Defendant:

23 (a) One of the most commonly used forms of bargain advertising is to
24 offer a reduction from the advertiser's own former price for an
25 article. If the *former price* is the actual, bona fide price at which the
26 article was offered to the public *on a regular basis for a reasonably*
27 *substantial period of time*, it provides a legitimate basis for the
28 advertising of a price comparison. Where the former price is
genuine, the bargain being advertised is a true one. If, on the other
hand, the former price being advertised is not bona fide but fictitious

1 – for example, where an *artificial, inflated price was established*
2 *for the purpose of enabling the subsequent offer of a large*
3 *reduction* – the “bargain” being advertised *is a false one*; the
4 purchaser is not receiving the unusual value he expects.

5 (b) A former price is not necessarily fictitious merely because no sales
6 at the advertised price were made. The advertiser should be
7 especially careful, however, in such a case, that the price is one at
8 which the product was openly and actively offered for sale, for a
9 reasonably substantial period of time, in the recent, regular course
10 of her business, honestly and in good faith – and, of course, not for
11 the purpose of establishing a fictitious higher price on which a
12 deceptive comparison might be based.

13 (c) The following is an example of a price comparison based on a
14 fictitious former price. John Doe is a retailer of Brand X fountain
15 pens, which cost him \$5 each. His usual markup is 50 percent over
16 cost; that is, his regular retail price is \$7.50 in order subsequently to
17 offer an unusual “bargain,” Doe begins offering Brand X at \$10 per
18 pen. He realizes that he will be able to sell no, or very few, pens at
19 this inflated price. But he doesn’t care, for he maintains that price for
20 only a few days. Then he “cuts” the price to its usual level—\$7.50—
21 and advertises: “Terrific Bargain: X Pens, Were \$10, Now Only
22 \$7.50!” *This is obviously a false claim.* The advertised “bargain” is
23 not genuine.

24 (d) Other illustrations of fictitious price comparisons could be given. An
25 advertiser might use a price at which he *never offered the article at*
26 *all*; he might feature a price which was *not used in the regular course*
27 *of business*, or which was *not used in the recent past* but at some
28 remote period in the past, without making disclosure of that fact; he
might use a price that was not openly offered to the public, or that
was *not maintained for a reasonable length of time*, but was
immediately reduce.

16 C.F.R. § 233.1 (emphasis added).

1 62. The FTCA expressly prohibits the advertising of former fictitious prices,
2 like the scheme employed by Defendant, regardless of whether the product
3 advertisements and representations use the words “regular”, “original”, or “former”
4 price:

5 (e) If the former price is set forth in the advertisement, whether
6 accompanied or not by descriptive terminology such as “Regularly,”
7 “Usually,” “Formerly,” etc., the advertiser should make certain that
8 the former price is not a fictitious one. If the former price, or the
9 amount or percentage of reduction, is not stated in the advertisement,
10 as when the ad merely states, “Sale,” the advertiser must take care
11 that the amount of reduction is not so insignificant as to be
12 meaningless. It should be sufficiently large that the consumer, if he
13 knew what it was, would believe that a genuine bargain or saving
14 was being offered. An advertiser who claims that an item has been
15 “Reduced to \$9.99,” when the former price was \$10, is misleading
16 the consumer, who will understand the claim to mean that a much
17 greater, and not merely nominal, reduction was being offered.

18 16 C.F.R. § 233.1.

19 63. Defendant’s pricing scheme directly violates the FTCA.

20 64. In addition, Section 17500 of California’s False Advertising Law
21 prohibits businesses from making statements they know or should know to be untrue
22 or misleading. Cal. Bus. & Prof. Code § 17500. This includes statements falsely
23 suggesting that a product is on sale, when it actually is not.

24 65. Section 17501 of California’s False Advertising Law provides that “[n]o
25 price shall be advertised as a former price ... unless the alleged former price was the
26 prevailing market price ... within three months next immediately preceding” the
27 advertisement. Cal. Bus. & Prof. Code § 17501.

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

1 71. Plaintiff reserves the right to modify or amend the definition of the
2 proposed Class if necessary, before this Court determines whether certification is
3 appropriate.

4 72. This case is properly brought as a class action under Fed. R. Civ. P.
5 23(b)(2) and (b)(3) and all requirements are met for the reasons set forth in the
6 following paragraphs.

7 73. *Numerosity.* The members of the Class are so numerous that separate
8 joinder of each member is impracticable. Upon information and belief, and subject to
9 discovery, the Class consist of many thousands of members, the identity of whom are
10 within the exclusive knowledge of Defendant and can be ascertained only by resorting
11 to Defendant's records, discovery, and other third-party sources.

12 74. *Commonality.* There are numerous questions of law and fact common to
13 the Class relating to Defendant's business practices challenged herein, and those
14 common questions predominate over any questions affecting only individual Class
15 members. The common questions include, but are not limited to:

- 16 ○ Whether Defendant's labeling, advertising, and marketing of the
17 Products is false and misleading;
- 18 ○ Whether Defendant advertised false reference prices on Products
19 offered on the websites;
- 20 ○ Whether Defendant advertised price discounts from the false
21 reference prices on the Products offered on the websites;
- 22 ○ Whether the Products listed on Defendant's websites were offered at
23 their reference price for a reasonably substantial period of time during
24 the three months prior to being offered at prices that were discounted
25 from their reference prices;
- 26 ○ Whether the Products listed on Defendant's websites were offered at
27 their reference price within the three months preceding purchases by
28 Plaintiff and class members;

- Whether Defendant's misrepresentations were material to reasonable consumers;
- Whether Defendant engaged in unlawful or unfair conduct prohibited by the California UCL;
- Whether Defendant engaged in conduct prohibited by the California FAL;
- Whether Defendant violated the CLRA's prohibition on unfair methods of competition and/or unfair and deceptive practices;
- Whether Defendant violated the FTCA;
- Whether Defendant harmed Plaintiff and members of the Class;
- the proper measure of damages; and
- the declaratory and injunctive relief to which the Class is entitled.

75. *Typicality.* Plaintiff's claims are typical of the claims of the other Class members in that they arise out of the same wrongful business practices engaged in by Defendant, as described herein.

76. *Adequacy of Representation.* Plaintiff is an adequate representative of the Class because Plaintiff has sustained damages as a result of Defendant's uniform conduct. In addition:

- Plaintiff is committed to the vigorous prosecution of this action individually and on behalf of and all others similarly situated and has retained competent counsel experienced in the prosecution of class actions;
- There is no hostility of interest between Plaintiff and the unnamed Class members;
- Plaintiff anticipates no difficulty in the management of this litigation as a class action; and

- Plaintiff's legal counsel has the financial and legal resources to meet the substantial costs and legal work associated with this type of litigation.

77. *Predominance.* The questions of law and fact common to the Class as set forth in the "commonality" allegation above predominate over any individual issues. As such, the "commonality" allegations are restated and incorporated herein by reference.

78. *Superiority.* A class action is superior to other available methods and highly desirable for the fair and efficient adjudication of this controversy. Since the amount of each individual Class member's claim is small relative to the complexity of the litigation and since the financial resources of Defendant are significant, no Class member could afford to seek legal redress individually for the claims alleged herein. Therefore, absent a class action, the Class members will continue to suffer losses and Defendant's misconduct will proceed without remedy. In addition, even if Class members themselves could afford such individual litigation, the court system could not. Given the complex legal and factual issues involved, individualized litigation would significantly increase the delay and expense to all parties and to the Court. Individualized litigation would also create the potential for inconsistent or contradictory rulings. By contrast, a class action presents far fewer management difficulties, allows claims to be heard which might otherwise go unheard because of the relative expense of bringing individual lawsuits, and provides the benefits of adjudication, economies of scale and comprehensive supervision by a single court.

79. All conditions precedent to bringing this action have been satisfied and/or waived.

FIRST CAUSE OF ACTION
VIOLATION OF CALIFORNIA’S UNFAIR COMPETITION LAW (“UCL”)
(Cal. Bus. & Prof. Code §§ 17200, *et seq.*)
(On behalf of Plaintiff and the Class)

80. Plaintiff hereby incorporates by reference the allegations contained in the preceding paragraphs of this Complaint.

81. Plaintiff and Defendant are “persons” within the meaning of the UCL. Cal. Bus. & Prof. Code § 17200.

82. The UCL defines unfair competition to include any “unlawful, unfair or fraudulent business act or practice.” Cal. Bus. & Prof. Code § 17200.

83. Defendant violated the UCL by engaging in “unlawful, unfair, and fraudulent business acts or practices” and engaging in “unfair, deceptive, untrue or misleading advertising,” including advertising false and deceptive reference prices on its Products. Cal. Bus. & Prof. Code § 17200.

a. Unlawful Prong

84. As a result of engaging in the conduct alleged in this Complaint, Defendant has violated the UCL’s proscription against engaging in “unlawful” conduct by virtue of their violations of the following laws:

(1) **California Bus. & Prof. Code § 17501**: As further detailed in this Complaint, Defendant violated California’s False Advertising Law, Cal. Bus. & Prof. Code §§ 17500 and 17501.

(2) **The Federal Trade Commission Act**: As detailed in this Complaint, Defendant violated 16 C.F.R. §§ 233.1 and 233.5.

(3) **Consumers Legal Remedies Act (“CLRA”), Cal. Civ. Code § 1770(a)**: As alleged below, Defendant’s conduct, individually and collectively, violates section 1770(a)(5), (7), (9), and (13) of the CLRA. Therefore, Defendant has also violated the UCL’s “unlawful” provision.

1 85. Plaintiff reserves the right to allege other violations of law, which
2 constitute other unlawful business acts or practices. Such conduct is ongoing and
3 continues to this date. Unless restrained and enjoined, Defendant will continue to
4 engage in the unlawful conduct described herein.

5 86. Defendant's conduct caused and continues to cause substantial injury to
6 Plaintiff and the Class. As described herein, Defendant made false and deceptive
7 advertisements and representations regarding the reference prices on the Products it
8 claimed were on sale. But for Defendant's unlawful and unfair conduct, Plaintiff and
9 Class members would not have purchased the Products.

10 87. Plaintiff has suffered injury in fact and have lost money as a result of
11 Defendant's conduct.

12 88. Accordingly, Plaintiff and Class Members seek restitution from
13 Defendant of all money obtained from Plaintiff and the Class as a result of
14 Defendant's unlawful acts.

15 **b. *Unfair Prong***

16 89. As a result of engaging in the conduct alleged herein, Defendant has
17 violated the UCL's proscription against "unfair" business practices.

18 90. Under the UCL, a business act or practice is "unfair" if the Defendant's
19 conduct is substantially injurious to consumers, offends public policy, and is immoral,
20 unethical, oppressive, and unscrupulous, as the benefits for committing such acts or
21 practices are outweighed by the gravity of the harm to the alleged victims.

22 91. Defendant's unfair conduct alleged in the Complaint is illegal, deceptive,
23 unethical, and unscrupulous. Under federal and state law, making false and deceptive
24 claims about products being marketed and sold to consumers violates the UCL.

25 92. Defendant's deceptive marketing gave consumers the false impression
26 that their products were regularly listed or sold on the websites for a substantially
27 higher price in the recent past than they were and, thus, led to the false impression
28 that Defendant's products were being sold at a discount to a regular price.

1 93. Furthermore these acts and practices offend public policy by violating
2 the CLRA and the California False Advertising Law (“FAL”), Cal. Bus. & Prof. Code
3 17500, *et seq.*

4 94. Defendant’s conduct was and continues to be of no benefit to purchasers
5 of the Products, as it is misleading, unfair, unlawful, and is injurious to consumers.

6 95. Therefore, Defendant’s conduct was and continues to be “unfair.”

7 96. Defendant’s violations of the UCL continue to this day. Unless restrained
8 and enjoined, Defendant will continue to engage in the unfair conduct described
9 herein. Plaintiff would consider buying again from Defendant’s website if he knew
10 that the pricing misrepresentations were halted and if he had the opportunity to
11 evaluation the actual prevailing price and actual discount prices of the Product.

12 97. Defendant’s violations of the UCL continue to this day. Unless restrained
13 and enjoined, Defendant will continue to engage in the unfair conduct described
14 herein.

15 98. Defendant’s conduct caused and continues to cause substantial injury to
16 Plaintiff, as well as the Class members.

17 99. The harm to Plaintiff and members of the Class outweighs the utility of
18 Defendant’s practices. There were reasonably available alternatives to further
19 Defendant’s legitimate business interests, other than the unfair conduct described
20 herein.

21 100. Accordingly, Plaintiff and the Class seeks restitution from Defendant of
22 all money obtained from Plaintiff and the Class members as a result of Defendant’s
23 unfair competition.

24 ***c. Fraudulent Prong***

25 101. As a result of engaging in the conduct alleged herein, Defendant has
26 violated the UCL’s proscription against “fraudulent” business practices.

27 102. Under the UCL, a business act or practice is “fraudulent” if it actually
28 deceives or is likely to deceive members of the consuming public. Defendant

1 affirmatively misrepresented the reference prices of products which, in turn, misled
2 and deceived consumers into believing that they were buying products at substantially
3 discounted prices. Defendant's deceptive marketing gave consumers the false
4 impression that its products were regularly listed or sold on the website for a
5 substantially higher price in the previous three months. Because Defendant misled
6 Plaintiff and members of the Class, Defendant's conduct was "fraudulent."

7 103. Defendant's advertisements concerning the reference price of Products
8 on its websites were fraudulent business acts in violation of the UCL. These acts were
9 reasonably likely to deceive consumers, and in fact did deceive Plaintiff and Class
10 members and induce them into purchasing Defendant's Products.

11 104. Defendant knew its Products were not actually sold at the higher
12 reference price for a three month period of time preceding Plaintiff's and Class
13 members' purchases.

14 105. Defendant had a duty to disclose the truth about its pricing deception,
15 including that the reference prices advertised on its website were not, in fact, prices
16 at which Defendant's items were listed or sold on the website in the previous three
17 months, but in truth, the products never (or rarely) were offered or sold at the reference
18 prices.

19 106. Defendant made these statements with the intention that Plaintiff would
20 see them and rely on them to purchase its Products, and, in fact, Plaintiff did rely on
21 Defendant's fraudulent misrepresentations on Defendant's websites when purchasing
22 the Product.

23 107. If not for Defendant's fraudulent acts and practices, Plaintiff would not
24 have purchased the Products.

25 108. As a result, Plaintiff and Class Members suffered substantial injury and
26 lost money due to Defendant's conduct.

27 109. There were reasonably available alternatives to further Defendant's
28 legitimate business interests, other than the conduct described herein. As a result of

1 Defendant's fraudulent business acts and practices, Defendant has and continues to
2 fraudulently obtain money from Plaintiff and Class Members.

3 110. Plaintiff requests that this Court cause Defendant to restore this
4 unlawfully, unfairly, and fraudulently obtained money to them, and members of the
5 Class, to disgorge the profits Defendant made on these transactions, and to enjoin
6 Defendant from violating the UCL or violating it in the same fashion in the future.

7 **SECOND CAUSE OF ACTION**
8 **VIOLATION OF CALIFORNIA'S FALE ADVERTISING LAW ("FAL")**
9 **Cal. Bus. & Prof. Code §§ 17500, *et seq***
10 **(On behalf of Plaintiff and the Class)**

11 111. Plaintiff hereby incorporates by reference the allegations contained in
12 the preceding paragraphs of this Complaint.

13 112. Defendant violated Cal. Bus. & Prof. Code §§ 17500 and 17501.

14 113. The California's False Advertising Law ("FAL"), Cal. Bus. & Prof.
15 Code § 17500, *et seq.*, by states, in part, that:

16 It is unlawful for any person, firm, corporation or association, or any
17 employee thereof with intent directly or indirectly to dispose of real or
18 personal property or to perform services, professional or otherwise, or
19 anything of any nature whatsoever or to induce the public to enter into
20 any obligation relating thereto, to make or disseminate or cause to be
21 made or disseminated before the public in this state, or to make or
22 disseminate or cause to be made or disseminated from this state before
23 the public in any state, in any newspaper or other publication, or any
24 advertising device, or by public outcry or proclamation, or in any other
25 manner or means whatever, including over the Internet, any statement,
26 concerning that real or personal property or those services, professional
27 or otherwise, or concerning any circumstance or matter of fact
28 connected with the proposed performance or disposition thereof, **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...**

Cal. Bus. & Prof. Code § 17500. (emphasis added).

114. A separate section of the FAL, Cal. Bus. & Prof. Code § 17501, also provides:

For the purposes of this article the worth or value of any thing advertised is the prevailing market price, wholesale if the offer is at wholesale, retail if the offer is at retail, at the time of publication of such advertisement in the locality wherein the advertisement is published.

No price shall be advertised as a *former price* of any advertised thing, unless the alleged former price was the *prevailing market price* as above defined within *three months next immediately preceding* the publication of the advertisement or unless the date when the alleged former price did prevail is clearly, exactly and conspicuously stated in the advertisement.

Cal. Bus. & Prof. Code § 17501. (emphasis added).

115. As used in the FAL:

(a) The term “prevailing market price” refers to the “retail price” if the offer is at retail.” *Id.*

(b) The term “advertised thing” refers to the exact same product offered—*not* an equivalent or similar product. *People v. Superior Ct. (J.C. Penney Corp.)*, 24 Cal App. 5th 376, 412 (2019) (“if the advertisement specifies a precise item—say, by reference to name, brand, or other distinctive features ... the market and therefore the market price is potentially determined on the basis of sales of *that item only.*”) (emphasis added).

(c) The term “ ‘former price’ ... includes but is not limited to the following words and phrases when used in connection with advertised prices: ‘formerly—,’ ‘regularly—,’ ‘usually—,’ ‘originally—,’ ‘reduced from __,’ was __ now __,’ ‘__% off.’” 4 Cal. Code Regs., § 1301 (emphasis added).

1 (d) The “three-month period is properly construed as a ‘rolling’ period,
2 that is, one whose beginning and end changes each day, thus requiring
3 a daily recalculation of the prevailing market price during the three-
4 month period.” *People v. Superior Ct. (J.C. Penney Corp.)*, 24 Cal
5 App. 5th 376, 416 n.26 (2019) (emphasis added).

6 116. Defendant violated Cal. Bus. & Prof. Code § 17500.

7 117. Defendant violated Cal. Bus. & Prof. Code § 17501.

8 118. As alleged more fully above, Defendant advertises former prices along
9 with discounts on its websites. Defendant does this, for example, by crossing out a
10 higher price (e.g. \$150) and displaying it next to a lower, discounted price. Reasonable
11 consumers would understand prices denoted as regular prices from which time-
12 limited discounts are calculated to denote “former” prices, i.e., the prices that
13 Defendant charges before the discount went into effect.

14 119. The reference prices advertised as former or regular prices on
15 Defendant’s websites are not former or regular prices under the FAL. Defendant
16 rarely, if ever, offered Products on the websites at the reference prices within three
17 months immediately preceding the publication of the reference prices. Additionally,
18 the reference prices shown were not the prevailing market prices for the Products in
19 the three months immediately preceding the publication.

20 120. Defendant did not verify that the advertised reference prices were the
21 prevailing market prices within the preceding three months. On information and
22 belief, Defendant had no policies or procedures to verify and update the reference
23 prices on a daily basis.

24 121. Defendant’s deceptive marketing practice gave consumers the false
25 impression that the Products were regularly offered and sold for a substantially higher
26 price in the recent past than they were, and, thus, led to the false impression that
27 Defendant’s Products were worth more than they were.

1 122. Defendant knew that its advertised reference prices for the Products sold
2 on its website were untrue and/or misleading. Defendant knew that such Products had
3 rarely, if ever, been offered or sold on the website at the reference prices.

4 123. Defendant's misrepresentations were intended to induce reliance, and
5 Plaintiff saw, read, and reasonably relied on the false reference prices when
6 purchasing Defendant's Products. Defendant's misrepresentations were a substantial
7 factor in the Plaintiff's purchase decisions.

8 124. Plaintiff relied on Defendant's false advertisements with regard to the
9 Products, at the time of purchase.

10 125. As a result of Defendant's violation of the FAL, Plaintiff and Class
11 Members suffered substantial injury and lost money.

12 126. Pursuant to Cal. Bus. & Prof. Code § 17535, this Court has the power to
13 award such equitable relief, including but not limited to an order declaring the
14 reference prices listed on Defendant's Products' to be unlawful, an order enjoining
15 Defendant from engaging in any such further unlawful conduct, and an order directing
16 Defendant to refund to Plaintiff and Class members all monies wrongfully collected
17 as a result of its false advertisements.

18 **THIRD CAUSE OF ACTION**
19 **VIOLATION OF THE CONSUMERS LEGAL REMEDIES ACT ("CLRA")**
20 **(Cal. Civ. Code §§ 1750, *et seq.*)**
21 **(On behalf of Plaintiff and the Class)**

22 127. Plaintiff hereby incorporates by reference the allegations contained in
23 the preceding paragraphs of this Complaint.

24 128. Plaintiff and members of the Class are "consumers," as that term is
25 defined by Civil Code § 1761(d), because they purchased Products for personal,
26 family, or household purposes.

27 129. Plaintiff and Class members have engaged in a "transaction" with
28 Defendant, as that term is defined by Civil Code § 1761(e).

1 130. The conduct alleged in this Complaint constitutes unfair methods of
2 competition and unfair and deceptive acts and practices for purposes of the CLRA,
3 and was undertaken by Defendant in transactions intended to result in, and which
4 resulted in, the sale of goods or services to consumers.

5 131. As described more fully above, Defendant made and disseminated untrue
6 and misleading statements of fact in its advertisements to class members. Defendant
7 did this by using fake reference prices, i.e., reference prices that are not the prevailing
8 market price, and/or were not the prevailing market price within the three months
9 preceding the publication of the discount, and advertising fake discounts.

10 132. As a result of Defendant's conduct, Plaintiff and Class members
11 purchased Defendant's Products for their use.

12 133. By engaging in the conduct described herein, Defendant has violated the
13 following subdivision of California Code § 1770(a) by:

14 (5) Representing that goods or services have sponsorship, approval,
15 characteristics, ingredients, uses, benefits, or quantities which they
16 do not have

17 ...

18 (7) Representing that goods or services are of a particular standard,
19 quality, or grade, or that goods are of a particular style or model, if
they are of another.

20 (9) Advertising goods or services with intent not to sell them as
21 advertised.

22 [and]

23 (13) Making false or misleading statements of fact concerning
24 reasons for, existence of, or amounts of price reductions.
25

26 134. Regarding section 1770(a)(13), Defendant made false or misleading
27 statements of fact concerning the "existence of" and the "amounts of price reductions"
28 because (a) no true price reductions existed in that Defendant's Products were rarely,

1 if ever, offered for sale and/or sold on the websites at the higher reference prices, let
2 along on a regular basis within the three months immediately preceding the
3 publication of the reference prices, (b) the reference prices Defendant advertised in
4 connection with its Products are not prevailing market prices because, on information
5 and belief, the Products were not sold elsewhere at the reference prices on a regular
6 basis within the three months immediately preceding the publication of the reference
7 prices, and (c) Defendant falsely represents the Products as on sale for a limited time
8 when in truth it appears they are perpetually sold at the advertised “sale” prices.

9 135. With regard to sections 1770(a)(5), (7), and (9), Defendant advertised
10 and represented Products on the websites with the “intent not to sell” them as
11 advertised and misrepresenting product characteristics and standards because, as
12 explained herein, the false reference prices advertised in connection with products
13 offered on the website misled and continue to mislead customers into believing the
14 Products were previously offered for sale and/or sold on the websites at the higher
15 reference prices during the three months preceding the advertisement.

16 136. Defendant intended for Plaintiff and the Class to rely on its
17 aforementioned unfair and deceptive acts and practices, including the
18 misrepresentations and omissions alleged above.

19 137. Defendant’s violations of the CLRA proximately caused injury in fact to
20 Plaintiff and the Class.

21 138. Plaintiff reasonably relied on Defendant’s representations. Absent
22 Defendant’s misrepresentations, Plaintiff would not have purchased the item he
23 purchased from Defendant. Plaintiff’s reliance was a substantial factor in causing him
24 harm.

25 139. Pursuant to Cal. Civ. Code § 1782(d), Plaintiff, individually and on
26 behalf of the Class, seeks a Court order enjoining the above-described wrongful acts
27 and practices of Defendant and for restitution and disgorgement.

28

1 k. Grant such other relief as the Court deems just and proper, including all
2 forms of relief provided for under the UCL, CLRA, and FAL.

3 **JURY DEMAND**

4 Plaintiff, by counsel, demand a trial by jury.

5
6 Dated: August 1, 2025

Respectfully submitted,

7
8 /s/ Charles R. Toomajian III

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27 * *Pro Hac Vice* applications to be submitted.

28 *Counsel for Plaintiff and the Proposed Class*