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[Additional Attorneys for Plaintiff Listed on Back Cover]

*Attorneys for Plaintiff*

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

PARKER ANDERSON, individually and on  
behalf of all others similarly situated,

Plaintiff,

v.

BROOKLINEN, INC., AND DOES 1-10.

Defendant.

**Civil Action No.: 24CU024312C**

**CLASS ACTION COMPLAINT FOR  
DAMAGES**

**DEMAND FOR JURY TRIAL**

Plaintiff Parker Anderson individually and on behalf of all others similarly situated, bring this Class Action Complaint against Defendant Brooklinen, Inc. ( "Defendant" or "Brooklinen") and make the following allegations based upon information and belief, except as to allegations specifically pertaining to Plaintiff, which are based on personal knowledge.

**NATURE OF THE ACTION**

1. This is a case concerning deceptive representations and omissions made by Defendant because of its misleading and unlawful pricing, sales, and discounting practices on its websites, which directly violate California a California statute and as a result deceive the reasonable consumer.

2. Defendant, Brooklinen sells and markets bed sheets, linens, and other bedding products online through the Brooklinen website, <https://www.brooklinen.com>.

3. The products at issue are all goods that have been offered at any time on Brooklinen's website, at a sale or discounted price from a supposedly higher reference price displayed to the

1 consumers in the product ad, where that higher price was not actually offered in compliance with  
2 the law (the “Products”).

3         4. Defendant’s website lists various items on sale or discount, and picture a stricken  
4 supposedly former or prevailing market price next to the current supposed “sale” price. However,  
5 the former or prevailing market price listed next to the sales price is not actually the former or  
6 prevailing market price at which the product was sold in the previous three months. Instead, it is a  
7 false or inflated price used to trick consumers into believing they are receiving a discount on their  
8 purchase. It is false because the item has not been listed for sale or sold on the website in the previous  
9 three months at the listed former price.

10         5. Section 17500 of California’s False Advertising Law prohibits businesses from  
11 making statements they know or should know to be untrue or misleading. Cal. Bus. & Prof. Code §  
12 17500. This includes statements falsely suggesting that a product is on sale, when it actually is not.

13         6. Section 17501 of California’s False Advertising Law provides that “[n]o price shall  
14 be advertised as a former price ... unless the alleged former price was the prevailing market price  
15 ... within three months next immediately preceding” the advertisement. Cal. Bus. & Prof. Code §  
16 17501. Therefore, the statute specifically prohibits this type of fake discount, where the advertised  
17 former price is not the prevailing price during the specified timeframe.

18         7. Upon investigation, all or nearly all of the reference higher prices on the website are  
19 false and misleading. They are not former or prevailing market prices at which the products were  
20 offered on the websites during the previous three (3) months.

21         8. Plaintiff—like other customers across the United States—fell prey to Defendant’s  
22 false, deceptive, and misleading discount scheme. As a result, Defendant has earned millions of  
23 dollars selling products at misrepresented discounts that do not actually exist.

24         9. When purchasing the Products, Plaintiff relied on Defendant’s misrepresentations  
25 that the Products were on sale and were previously sold at the former strikethrough price listed next  
26 to the sale price. However, these products were not actually sold at the former or regular price listed  
27 on the website within the previous three months before the purchase. Therefore, the discount was  
28 false.



**BACKGROUND FACTS**

17. Defendant markets and sells bedsheets, linens, and other bedding products on its website.

18. Defendant claims it is “The Internet’s Favorite Sheets.”<sup>1</sup>



Brooklinen

<https://www.brooklinen.com>

**Brooklinen® | The Internet's Favorite Sheets**

Luxury bed sheets, pillows, comforters, & blankets delivered straight to your door. The best way to outfit your bedroom.

19. Defendant, through its website, has sold millions of units of merchandise to customers in California and nationwide.




**I. Brooklinen’s Fake Discount Scheme**

20. Defendant creates the false impression that its Products’ regular or former prices are higher than they truly are.

21. On any given day, most if not all products on Defendant’s various websites are represented as being discounted from a substantially higher reference price. On individual listing pages and category listing pages, the supposed mark-downs are represented to consumers by (1) prominently displaying a “crossed-out” or strikethrough reference price next to a sale price, (2) stating “\_\_\_\_% off” adjacent to the higher reference price, and/or (3) depicting the sale price in bold text adjacent to the reference price. Example screenshots are provided below:

[Images on next page].

<sup>1</sup> Screenshot of Brooklinen’s website listing on Google on October 13, 2024.

<p>BEST SELLER</p>  <p>GOOD HOUSEKEEPING</p> <p>✦ BUNDLE &amp; SAVE</p> <p><b>Luxe Sateen Hardcore Bundle</b></p> <p>From: <del>\$347</del> <b>\$208.20</b></p> <p>25% off bundle 20% off everything</p> <p>Includes 1 Core Sheet Set (Fitted Sheet, Flat Sheet, 2 Pillowcases). 1 Duvet Cover, and 2 extra</p>	<p>BEST SELLER</p>  <p>GOOD HOUSEKEEPING</p> <p><b>Luxe Sateen Core Sheet Set</b></p> <p>From: <del>\$149</del> <b>\$119.20</b></p> <p>20% off everything</p> <p>Includes 1 Flat Sheet, 1 Fitted Sheet, and 2 Pillowcases</p> <p>★★★★★ (23,064)</p>	<p>BACK IN STOCK</p>  <p>GOOD HOUSEKEEPING</p> <p><b>Luxe Sateen Core Sheet Set</b></p> <p>From: <del>\$149</del> <b>\$119.20</b></p> <p>20% off everything</p> <p>Includes 1 Flat Sheet, 1 Fitted Sheet, and 2 Pillowcases</p> <p>★★★★★ (23,064)</p>
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✦ FRIENDS & FAMILY SALE

# Down Comforter

★★★★★ (2,292)

From: ~~\$199~~ **\$159.20**

20% off everything

Includes 1 Down Comforter

22. The above photos are just a few examples from Defendant's website that show how it consistently lists its false discounts on the website.

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

24. 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 many, if not all products, 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 Purchased Products that Were Falsely Advertised as Having Discounts***

25. On June 2, 2023, Plaintiff purchased two (2) Luxe Core Sheet Sets (“The Sheet Sets”), one being “warm gray” in color and the other being “graphite” in color, directly from Brooklinen’s website for \$141.75 each. He made this purchase while living in San Diego, California.

26. On June 2, 2023, Defendant represented on its website that this product was for sale at a discount, with a regular or former price of \$189, listed as a strikethrough reference price under the product:

27. Additionally, in the order confirmation on the webpage shown after the purchase on June 2, 2023, Defendant represented that the prevailing market price or former price of the each of

**brooklinen**

Order #BL9240911200623  
Thank you, Parker!

Confirmed June 2 | On its way June 6 | Out for delivery June 7 | Delivered June 6

Shipping address  
**San Diego, California**

**Your order has been delivered**  
Your order has been delivered to the address you provided. If you haven't received it, or if you have any other problems, contact us.

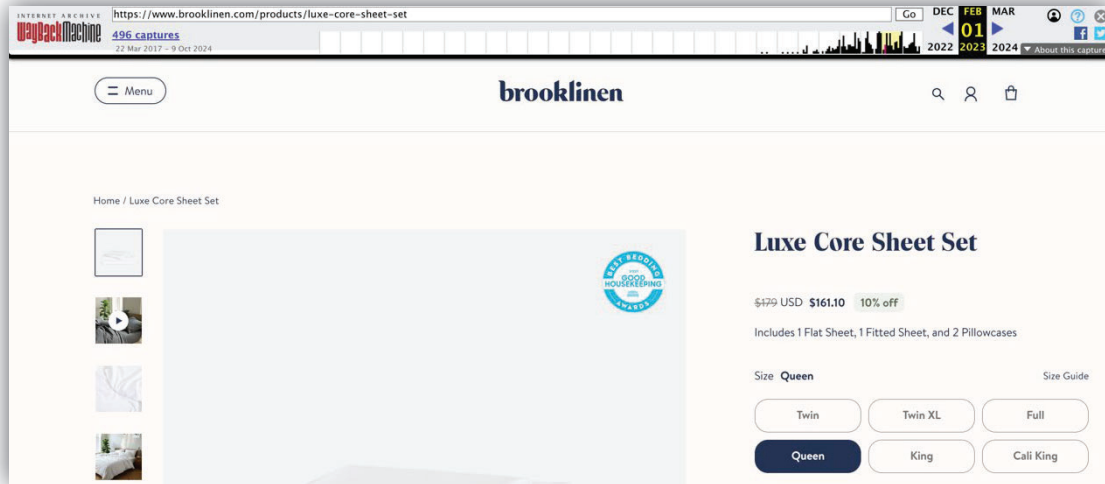
FedEx tracking number:  
293799615321942

1 Free Tote	Free
1 Luxe Core Sheet Set Queen / Warm Grey EXC-284020 (-\$47.25)	\$189.00 <b>\$141.75</b>
1 Luxe Core Sheet Set Queen / Graphite EXC-284020 (-\$47.25)	\$189.00 <b>\$141.75</b>
Subtotal	<b>\$283.50</b>
Shipping	<b>Free</b>
Taxes	<b>\$21.98</b>
Total	USD <b>\$305.48</b>

the Sheet Sets was \$189, and that Plaintiff would be paying a price of \$141.75 for each Sheet Set:

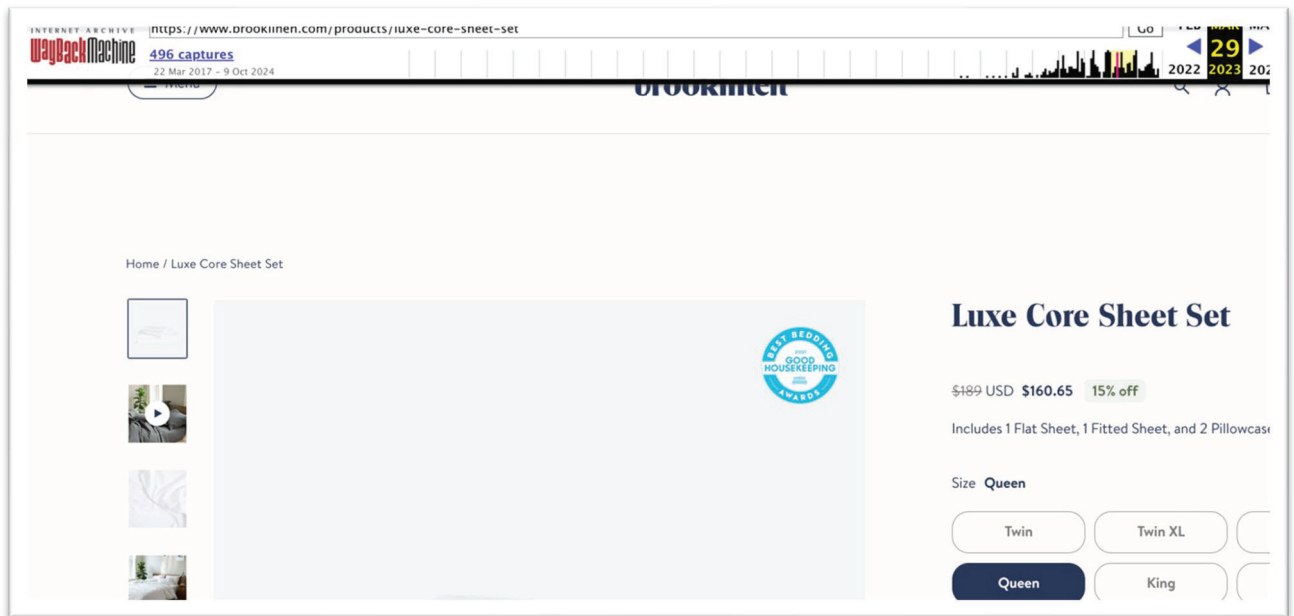


28. As evidenced by the images below, Defendant did not list or sell this product for the \$189 strikethrough reference price for the four (4) months prior to Plaintiff's purchase:

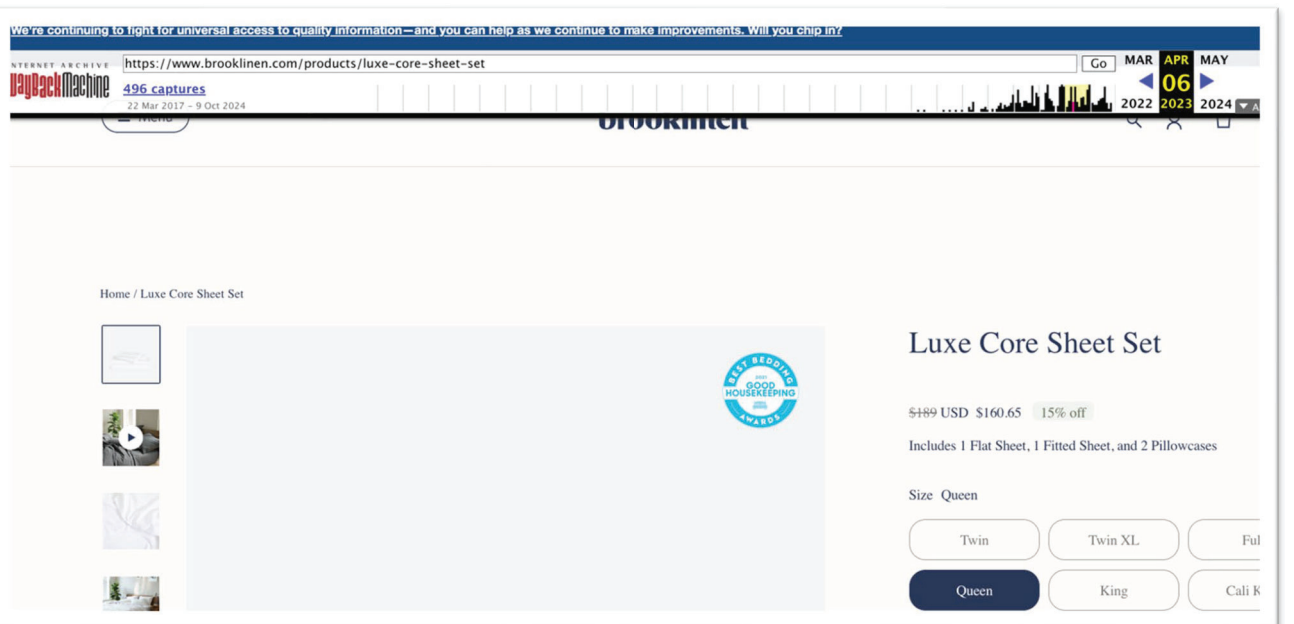


February 1, 2023

March 29, 2023

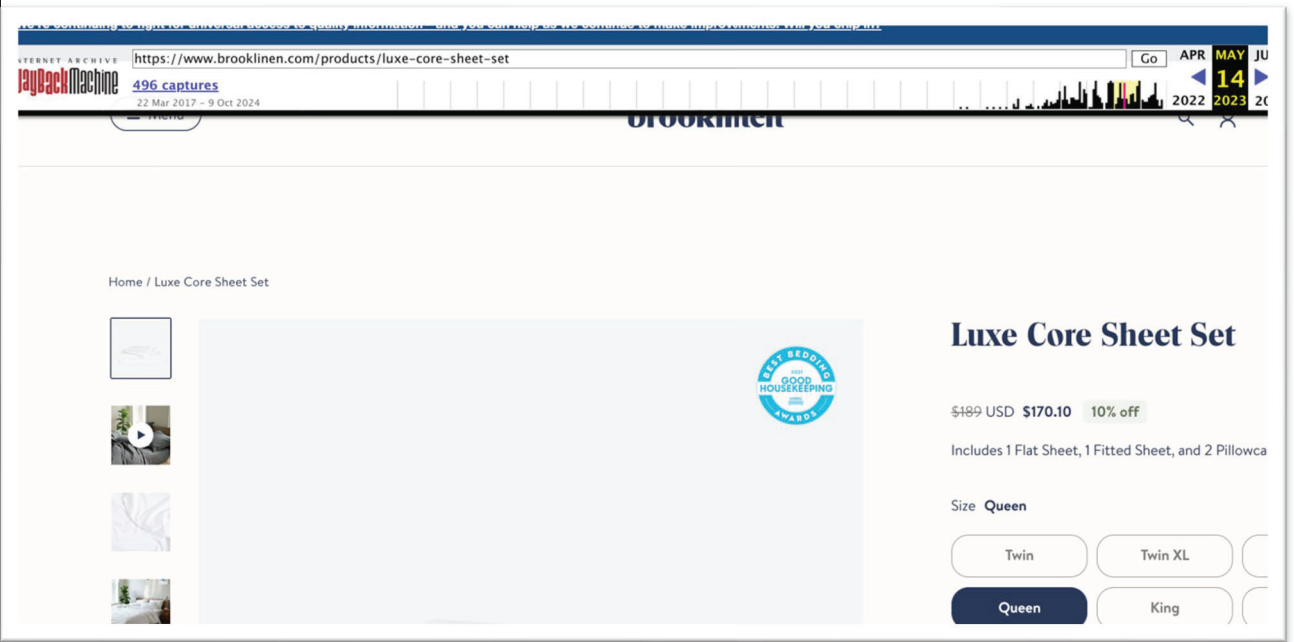


April 6, 2023





May 14, 2023



29. As evidenced by Defendant's own website, the Lux Core Sheet was not listed or sold at the strikethrough reference price of \$189 within the three months (and likely longer) prior to Plaintiff's purchase.

30. In fact, the product was still being listed at a discount on October 24, 2024, with the same reference price of \$189.

October 24, 2024



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

32. For each purchase, 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’s purchase.

33. However, as shown above, Defendant did not list or sell the Products at the reference price for at least the previous three (3) months (and likely much longer) prior to Plaintiff’s purchase. In fact, Defendant instituted a similar discount during the previous months, using the same false reference prices. Even in the months after Plaintiff’s purchases, the Products have continued to be listed at a discount, referencing the same regular or former price.

34. The above-listed Products Plaintiff purchased were not substantially marked down or discounted, and any discount he was receiving had been grossly exaggerated.

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

36. Plaintiff would not have purchased the Products if he had known the Products were not discounted as advertised, and that he was not receiving the advertised discount.

1           37.     Upon information and belief, Defendant enacts the same false discount scheme with  
2 many, if not all, of the Products listed on its website.

3           38.     Based on Defendant's numerous advertisements, reasonable consumers would  
4 reasonably believe that the reference prices Defendant advertises are Defendant's former prices (that  
5 is, the price at which the goods were actually offered for sale and sold at before the limited time  
6 offer went into effect). In other words, reasonable consumers would reasonably believe that the  
7 reference prices Defendant advertises represent the amount that consumers formerly had to pay for  
8 Defendant's goods, before the limited-time sale began.

9           39.     Reasonable consumers would also believe that the reference prices Defendant  
10 advertises represent the true comparison price for the Products, and are the prevailing price for those  
11 Products, and that they are receiving reductions from those regular prices in the amounts advertised.  
12 In truth, however, Defendant persistently offers sales at lower prices and only gives the false  
13 appearance of discounts off the purportedly regular prices it advertises. As a result, Defendant's  
14 price and purported discount advertising is false. The regular prices Defendant advertises are not  
15 actually Defendant's regular or former prices, or the prevailing prices for the Products Defendant  
16 sells, and do not represent the true comparison price for the Products, because Defendant's Products  
17 are consistently available for less than that, and customers did not have to formerly pay that amount  
18 to get those items. The purported discounts Defendant advertises are not the true discount the  
19 customer is receiving, and are often not a discount at all.

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21  
22           ***B. The Reference Prices Are Not the Prevailing Market Price of the Products, Including***  
23           ***During the Rolling 90-day Period Prior to the Offering and/or Purchase***  
24  
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1           40. Defendant is the manufacturer of the Products, and the vast majority of the Products  
2 are sold by Defendant directly to consumers (at a purportedly discount price), on its website. In fact,  
3 Defendant claims on its website that it is the “Internet’s Best Sheets”:



12           Image from Defendant’s website on February 8, 2023.

13

14           41. Defendant is a direct-to-consumer brand that sells its Products online. Indeed,  
15 Defendant’s mantra on its website is “[l]uxury bedsheets, comforters, & blankets delivered straight  
16 to your door.”<sup>2</sup> As the primary seller of the Products, Defendant sets the prevailing market price—  
17 most sells are made at Defendant’s prices, because Defendant is the one making the sales.

18           42. In short, because the Products are most commonly sold by Defendant on its website,  
19 they are most commonly sold for the discounted prices that are always available from Defendant  
20 (across all Defendant’s sales channels).

21           43. Upon information and belief, many, if not all, of the Brooklinen products that are  
22 sold anywhere are sold by Defendant on its website. To the extent the Products are sold through a  
23 third-party seller, the third-party seller’s prices for the Product are not the prevailing market price.

24

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

27 \_\_\_\_\_

28       <sup>2</sup> *Supra* note 1.

1           44.     The effectiveness of Defendant’s deceitful pricing scheme is backed by longstanding  
2 research.

3           45.     “By creating an impression of savings, the presence of a higher reference price  
4 enhances subjects’ perceived value and willingness to buy the product.”<sup>3</sup> Thus, “empirical studies  
5 indicate that, as discount size increases, consumers’ perceptions of value and their willingness to  
6 buy the product increase, while their intention to search for a lower price decreases.”<sup>4</sup> For this  
7 reason, the Ninth Circuit in *Hinjos* held that a plaintiff making a claim of deceptive pricing (similar  
8 to the claim at issue here) had standing to pursue his claim against the Defendant retailer. In doing  
9 so, the Court observed that “[m]isinformation about a product’s ‘normal’ price is . . . significant to  
10 many consumers in the same way as a false product label would be.” *Hinojos v. Kohl’s Corp.*, 718  
11 F.3d 1098, 1106 (9th Cir. 2013).

12           46.     “[D]ecades of research support the conclusion that advertised reference prices do  
13 indeed enhance consumers’ perceptions of the value of the deal.”<sup>5</sup> According to academic studies,  
14 “[c]onsumers are influenced by comparison prices even when the stated reference prices are  
15 implausibly high.”<sup>6</sup>

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

19           48.     Consumers that are presented with discounts are substantially more likely to make  
20 the purchase. “Nearly two-thirds of consumers surveyed admitted that a promotion or a coupon often  
21 closes the deal, if they are wavering or are undecided on making a purchase.”<sup>7</sup> And, “two-thirds of  
22 \_\_\_\_\_

23 <sup>3</sup> Dhruv Grewal & Larry D. Compeau, *Comparative Price Advertising: Informative or Deceptive?*, 11 J. Pub.  
24 Pol’y & Mktg. 52, 55 (Spring 1992).

<sup>4</sup> *Id.* at 56.

25 <sup>5</sup> Dhruv Grewal & Larry D. Compeau, *Comparative Price Advertising: Believe It or Not*, J. of Consumer  
26 Affairs, Vol. 36, No. 2, at 287 (Winter 2002).

<sup>6</sup> *Id.*

27 <sup>7</sup> Khalid Saleh, *How Discounts Affect Online Consumer Buying Behavior*, Invesp, June 16, 2024,  
28 <https://www.invespcro.com/blog/how-discounts-affect-online-consumer-buying-behavior/> (last visited  
(footnote continued))

1 consumers have made a purchase they weren't originally planning to make solely based on finding  
2 a coupon or discount," while "80% [of consumers] said they feel encouraged to make a first-time  
3 purchase with a brand that is new to them if they found an offer or discount."<sup>8</sup>

4 49. Another academic journal explains that "[r]eference price ads strongly influence  
5 consumer perceptions of value ... Consumers often make purchases not based on price but because  
6 a retailer assures them that a deal is a good bargain. This occurs when ... the retailer highlights the  
7 relative savings compared with the prices of competitors ... [T]hese bargain assurances (BAs)  
8 change consumers' purchasing behavior and may deceive consumers."<sup>9</sup>

9 50. "[R]esearch has shown that retailer-supplied reference prices clearly enhance buyers'  
10 perceptions of value" and "have a significant impact on consumer purchasing decisions."<sup>10</sup>

11 51. "[R]eference prices are important cues consumers use when making the decision  
12 concerning how much they are willing to pay for the product."<sup>11</sup> This study also concluded that  
13 "consumers are likely to be misled into a willingness to pay a higher price for a product simply  
14 because the product has a higher reference price."<sup>12</sup>

15 52. Accordingly, research confirms that deceptive advertising through false reference  
16 pricing is intended to, and does, influence consumer behavior by artificially inflating consumer  
17 perceptions of an item's value and causing consumers to spend money they otherwise would not

18  
19  
20 September 11, 2024).

21 <sup>8</sup> RetailMeNot Survey: Deals and Promotional Offers Drive Incremental Purchases Online, Especially  
22 Among Millennial Buyers PR NEWswire (April 25, 2018), <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).

24 <sup>9</sup> Joan Lindsey-Mullikin & ross D. Petty, *Marketing Tactics Discouraging Price Search: Deception and Competition*, 64 J. of Bus. Research 67 (January 2011).

25 <sup>10</sup> Praveen K. Kopalle & Joan Lindsey-Mullikin, *The Impact of External Reference Price On Consumer Price Expectations*, 79 J. of Retailing 225 (2003).

27 <sup>11</sup> 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).

28 <sup>12</sup> *Id.*

1 have, purchase items they otherwise would not have, and/or purchase products from a specific  
2 retailer.

3 ***A. Consumers Suffered Harm***

4 53. Based on Defendant's advertisements, reasonable consumers would expect that the  
5 listed regular prices are the regular prices at which Defendant usually sells its Products.

6 54. Reasonable consumers would also expect that, if they purchase during the sale, they  
7 will receive an item whose regular or former price is the advertised regular or former price and that  
8 they will receive the advertised discount from the regular or former purchase price

9 55. Plaintiff and consumers paid a "price premium" for the Products. If the reference  
10 prices were omitted from the product listings, the Plaintiff would not have purchased the Products.

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

14 57. Thus, Defendant's advertisements harm consumers by inducing them to make  
15 purchases based on false information. In addition, by this same mechanism, Defendant's  
16 advertisements artificially increase consumer demand for Defendant's Products. This puts upward  
17 pressure on the prices that Defendant can charge for its Products. As a result, Defendant can charge  
18 a price premium for its Products that it would not be able to charge absent the misrepresentations  
19 described above.

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

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

25 59. Pursuant to 16 C.F.R. § 233.1

26 (a) One of the most commonly used forms of bargain advertising is to offer a  
27 reduction from the advertiser's own former price for an article. If the ***former***  
28 ***price*** is the actual, bona fide price at which the article was offered to the public  
***on a regular basis for a reasonably substantial period of time***, it provides a



1 legitimate basis for the advertising of a price comparison. Where the former  
2 price is genuine, the bargain being advertised is a true one. If, on the other hand,  
3 the former price being advertised is not bona fide but fictitious – for example,  
4 where an **artificial, inflated price was established for the purpose of enabling  
the subsequent offer of a large reduction** – the “bargain” being advertised **is a  
false one**; the purchaser is not receiving the unusual value he expects.

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

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

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

21 16 C.F.R. § 233.1 (emphasis added).

22 60. The FTCA expressly prohibits the advertising of former fictitious prices, like the  
23 scheme employed by Defendant, regardless of whether the product advertisements and  
24 representations use the words “regular”, “original”, or “former” price:

25 (e) If the former price is set forth in the advertisement, whether accompanied or not  
26 by descriptive terminology such as “Regularly,” “Usually,” “Formerly,” etc., the  
27 advertiser should make certain that the former price is not a fictitious one. If the  
28 former price, or the amount or percentage of reduction, is not stated in the  
advertisement, as when the ad merely states, “Sale,” the advertiser must take  
care that the amount of reduction is not so insignificant as to be meaningless. It

1 should be sufficiently large that the consumer, if he knew what it was, would  
2 believe that a genuine bargain or saving was being offered. An advertiser who  
3 claims that an item has been “Reduced to \$9.99,” when the former price was  
4 \$10, is misleading the consumer, who will understand the claim to mean that a  
much greater, and not merely nominal, reduction was being offered.

16 C.F.R. § 233.1.

61. Defendant’s pricing scheme directly violates the FTCA.

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

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

64. 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).

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

66. Here, as described in detail above, Defendant makes untrue and misleading  
statements about its prices. Defendant advertises regular prices that are not its regular prices, or its  
former prices, and were not the prevailing market price in the three months immediately preceding  
the advertisement. In addition, Defendant advertised goods or services with the intent not to sell  
them as advertised, for example, by advertising goods having certain former prices without the intent  
to sell goods having those former prices. Defendant made false and misleading statements of fact  
concerning the reason for, existence of, and amounts of price reductions, including the existence of

1 steep discounts, and the amounts of price reductions resulting from those discounts. And Defendant  
2 engaged in unlawful and deceptive business practices.

3 **CLASS ALLEGATIONS**

4 67. Plaintiff brings this action individually and on behalf of all others similarly situated.  
5 The proposed class is defined as:

6 **California Class:**

7 All persons residing in the State of California who, during the applicable limitations  
8 period, purchased one or more items from any website operated by Defendant, at a  
9 represented discount from a higher reference price.

10 68. Excluded from the Class is Defendant, its subsidiaries and affiliates, officers,  
11 directors, the members of their immediate families, and any entity in which any Defendant has a  
12 controlling interest, to include the legal representatives, heirs, successors, or assigns of any such  
13 excluded party. Also excluded are the judicial officer(s) to whom this action is assigned, and the  
14 members of their immediate families.

15 69. Plaintiff reserves the right to modify or amend the definition of the proposed Class  
16 if necessary, before this Court determines whether certification is appropriate.

17 70. This case is properly brought as a class action under Cal. Code of Civ. Procedure §  
18 382 and all requirements are met for the reasons set forth in the following paragraphs.

19 71. *Numerosity.* The members of the Class are so numerous that separate joinder of each  
20 member is impracticable. Upon information and belief, and subject to discovery, the Class consists  
21 of many thousands of members, the identity of whom are within the exclusive knowledge of  
22 Defendant and can be ascertained only by resorting to Defendant's records, discovery, and other  
23 third-party sources.

24 72. *Commonality.* There are numerous questions of law and fact common to the Class  
25 relating to Defendant's business practices challenged herein, and those common questions  
26 predominate over any questions affecting only individual Class members. The common questions  
27 include, but are not limited to:  
28

- Whether Defendant's labeling, advertising, and marketing of the Products is false and misleading;
- Whether Defendant advertised false reference prices on Products offered on the websites;
- Whether Defendant advertised price discounts from the false reference prices on the Products offered on the websites;
- Whether the Products listed on Defendant's websites were offered at their reference price within the three months preceding purchases by 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 the Plaintiff and members of the Class;
- the proper measure of damages; and
- the declaratory and injunctive relief to which the Class is entitled.

73. *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.

74. *Adequacy of Representation.* Plaintiff is an adequate representatives of the Class because Plaintiff has sustained damage 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 have retained competent counsel

1 experienced in the prosecution of class actions and, in particular, class actions on  
2 behalf of consumers against financial institutions;

- 3 ○ There is no hostility of interest between Plaintiff and the unnamed Class  
4 members;  
5 ○ Plaintiff anticipates no difficulty in the management of this litigation as a class  
6 action; and  
7 ○ Plaintiff's legal counsel has the financial and legal resources to meet the  
8 substantial costs and legal work associated with this type of litigation.

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

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

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

26 **FIRST CAUSE OF ACTION**  
27 **VIOLATION OF CALIFORNIA'S UNFAIR COMPETITION LAW ("UCL")**  
28 **(Cal. Bus. & Prof. Code §§ 17200, *et seq.*)**  
**(On behalf of Plaintiff and the California Class)**

1  
2 78. Plaintiff hereby incorporates by reference the allegations contained in the preceding  
3 paragraphs of this Complaint.

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

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

8 81. Defendant violated the UCL by engaging in “unlawful, unfair, and fraudulent  
9 business acts or practices” and engaging in “unfair, deceptive, untrue or misleading advertising,”  
10 including advertising false and deceptive reference prices on its Products. Cal. Bus. & Prof. Code §  
11 17200.

12 **a. Unlawful Prong**

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

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

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

21 (3) **Consumers Legal Remedies Act (“CLRA”), Cal. Civ. Code § 1770(a):** As  
22 alleged below, Defendant’s conduct, individually and collectively, violates section  
23 1770(a)(5), (7), (9), and (13) of the CLRA. Therefore, Defendant has also violated the  
24 UCL’s “unlawful” provision.

25 83. Plaintiff reserves the right to allege other violations of law, which constitute other  
26 unlawful business acts or practices. Such conduct is ongoing and continues to this date. Unless  
27 restrained and enjoined, Defendant will continue to engage in the unlawful conduct described herein.  
28

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

6           85. Plaintiff has suffered injury in fact and have lost money as a result of Defendant's  
7 conduct.

8           86. Accordingly, Plaintiff and Class Members seek restitution from Defendant of all  
9 money obtained from Plaintiff and the Class as a result of Defendant's unlawful acts.

10           **b. Unfair Prong**

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

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

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

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

24           91. Furthermore these acts and practices offend public policy by violating the CLRA and  
25 the California False Advertising Law ("FAL"), Cal. Bus. & Prof. Code 17500, *et seq.*

26           92. Defendant's conduct was and continues to be of no benefit to purchasers of the  
27 Products, as it is misleading, unfair, unlawful, and is injurious to consumers.

28           93. Therefore, Defendant's conduct was and continues to be "unfair."



1           94. Defendant's violations of the UCL continue to this day. Unless restrained and  
2 enjoined, Defendant will continue to engage in the unfair conduct described herein. Plaintiff would  
3 buy again from the Brooklinen website if he knew that the pricing misrepresentations were halted.

4           95. Defendant's conduct caused and continues to cause substantial injury to Plaintiff, as  
5 well as the Class members.

6           96. The harm to Plaintiff and members of the Class outweighs the utility of Defendant's  
7 practices. There were reasonably available alternatives to further Defendant's legitimate business  
8 interests, other than the unfair conduct described herein.

9           97. Accordingly, Plaintiff and the Class seek restitution from Defendant of all money  
10 obtained from Plaintiff and the Class members as a result of Defendant's unfair competition.

11           ***c. Fraudulent Prong***

12           98. As a result of engaging in the conduct alleged herein, Defendant has violated the  
13 UCL's proscription against "fraudulent" business practices.

14           99. Under the UCL, a business act or practice is "fraudulent" if it actually deceives or is  
15 likely to deceive members of the consuming public. Defendant affirmatively misrepresented the  
16 reference prices of products which, in turn, misled and deceived consumers into believing that they  
17 were buying products at substantially discounted prices. Defendant's deceptive marketing gave  
18 consumers the false impression that its products were regularly listed or sold on the website for a  
19 substantially higher price in the previous three months. Because Defendant misled Plaintiff and  
20 members of the Class, Defendant's conduct was "fraudulent."

21           100. Defendant's advertisements concerning the reference price of Products on its  
22 websites were fraudulent business acts in violation of the UCL. These acts were reasonably likely  
23 to deceive consumers, and in fact did deceive Plaintiff and induce them into purchasing Defendant's  
24 Products.

25           101. Defendant knew its Products were not actually sold at the higher reference price for  
26 a three month period of time preceding Plaintiff's and class members purchases.

27           102. Defendant had a duty to disclose the truth about its pricing deception, including that  
28 the reference prices advertised on its website were not, in fact, prices at which Defendant's items

1 were listed or sold on the website in the previous three months, but in truth, the products never (or  
2 rarely) were offered or sold at the reference prices.

3 103. Defendant made these statements with the intention that Plaintiff would see them and  
4 rely on them to purchase their Products, and, in fact, Plaintiff did rely on Defendant's fraudulent  
5 misrepresentations on Defendant's websites when purchasing the Products.

6 104. If not for Defendant's fraudulent acts and practices, Plaintiff would not have  
7 purchased the Products.

8 105. As a result, Plaintiff and Class Members suffered substantial injury and lost money  
9 due to Defendant's conduct.

10 106. There were reasonably available alternatives to further Defendant's legitimate  
11 business interests, other than the conduct described herein. As a result of Defendant's fraudulent  
12 business acts and practices, Defendant has and/or continues to fraudulently obtain money from  
13 Plaintiff and Class Members.

14 107. Plaintiff requests that this Court cause Defendant to restore this unlawfully, unfairly,  
15 and fraudulently obtained money to them, and members of the Class, to disgorge the profits  
16 Defendant made on these transactions, and to enjoin Defendant from violating the UCL or violating  
17 it in the same fashion in the future.

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

21 108. Plaintiff hereby incorporate by reference the allegations contained in the preceding  
22 paragraphs of this Complaint.

23 109. This Claim is brought on behalf of the California class, which is referred to in this  
24 section as the "Class."

25 110. Defendant violated Cal. Bus. & Prof. Code §§ 17500 and 17501.

26 111. The California's False Advertising Law ("FAL"), Cal. Bus. & Prof. Code § 17500,  
27 *et seq.*, by states, in part, that:  
28

1 It is unlawful for any person, firm, corporation or association, or any employee  
2 thereof with intent directly or indirectly to dispose of real or personal property or  
3 to perform services, professional or otherwise, or anything of any nature  
4 whatsoever or to induce the public to enter into any obligation relating thereto, to  
5 make or disseminate or cause to be made or disseminated before the public in this  
6 state, or to make or disseminate or cause to be made or disseminated from this state  
7 before the public in any state, in any newspaper or other publication, or any  
8 advertising device, or by public outcry or proclamation, or in any other manner or  
9 means whatever, including over the Internet, any statement, concerning that real or  
10 personal property or those services, professional or otherwise, or concerning any  
11 circumstance or matter of fact connected with the proposed performance or  
12 disposition thereof, **which is untrue or misleading, and which is known, or**  
13 **which by the exercise of reasonable care should be known, to be untrue or**  
14 **misleading...**

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

16 112. The FAL also provides that:

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

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

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

27 113. As used in the FAL:

28 (a) The term “prevailing market price” refers to the “retail [price] if the offer is at  
retail.”

(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).

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

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

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

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

19 116. Defendant’s misrepresentations were intended to induce reliance, and Plaintiff saw,  
20 read, and reasonably relied on the false reference prices when purchasing Defendant’s Products.  
21 Defendant’s misrepresentations were a substantial factor in the Plaintiff’s purchase decisions.

22 117. Plaintiff relied on Defendant’s false advertisements with regard to the Products, at  
23 the time of purchase.

24 118. As a result of Defendant’s violation of the FAL, Plaintiff and Class Members  
25 suffered substantial injury and lost money.

26 119. Pursuant to Cal. Bus. & Prof. Code § 17535, this Court has the power to award such  
27 equitable relief, including but not limited to an order declaring the reference prices listed on  
28 Defendant’s Products’ to be unlawful, an order enjoining Defendant from engaging in any such

1 further unlawful conduct, and an order directing Defendant to refund to Plaintiff and Class Members  
2 all monies wrongfully collected as a result of its false advertisements.

3 **THIRD CAUSE OF ACTION**  
4 **VIOLATION OF THE CONSUMERS LEGAL REMEDIES ACT (“CLRA”)**  
5 **(Cal. Civ. Code §§ 1750, *et seq.*)**  
6 **(On behalf of Plaintiff and the California Class)**

7 120. Plaintiff hereby incorporates by reference the allegations contained in the preceding  
8 paragraphs of this Complaint.

9 121. Plaintiff and members of the Class are “consumers,” as that term is defined by Civil  
10 Code § 1761(d), because they purchased Products for personal, family, or household purposes.

11 122. Plaintiff and Class members have engaged in a “transaction” with Defendant, as that  
12 term is defined by Civil Code § 1761(e).

13 123. The conduct alleged in this Complaint constitutes unfair methods of competition and  
14 unfair and deceptive acts and practices for purposes of the CLRA, and was undertaken by Defendant  
15 in transactions intended to result in, and which resulted in, the sale of goods or services to  
16 consumers.

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

22 125. As a result of Defendant’s conduct, Plaintiff and Class members purchased  
23 Defendant’s Products for their use.

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

26 (5) Representing that goods or services have sponsorship, approval,  
27 characteristics, ingredients, uses, benefits, or quantities which they do not have  
28 ...

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

1  
2 (9) Advertising goods or services with intent not to sell them as advertised.

3 (13) Making false or misleading statements of fact concerning reasons for,  
4 existence of, or amounts of price reductions.

5 127. Regarding section 1770(a)(13), Defendant made false or misleading statements of  
6 fact concerning the “existence of” and the “amounts of price reductions” because (a) no true price  
7 reductions existed in that Defendant’s Products were rarely, if ever, offered for sale and/or sold on  
8 the websites at the higher reference prices, let alone on a regular basis within the three months  
9 immediately preceding the publication of the reference prices, (b) the reference prices Defendant  
10 advertised in connection with its Products are not prevailing market prices because, on information  
11 and belief, the Products were not sold elsewhere at the reference prices on a regular basis within the  
12 three months immediately preceding the publication of the reference prices, and (c) Defendant  
13 falsely represents the Products as on sale for a limited time when in truth it appears they are  
14 perpetually sold at the advertised “sale” prices.

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

21 129. Defendant intended for Plaintiff and the Class to rely on its aforementioned unfair  
22 and deceptive acts and practices, including the misrepresentations and omissions alleged above.

23 130. Defendant’s violations of the CLRA proximately caused injury in fact to Plaintiff  
24 and the Class.

25 131. Plaintiff reasonably relied on Defendant’s representations. Absent Defendant’s  
26 misrepresentations, Plaintiff would not have purchased the items he purchased from Defendant.  
27 Plaintiff’s reliance was a substantial factor in causing him harm.  
28

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

133. On August 9, 2024, pursuant to Cal. Civ. Code § 1782(a), Defendant was sent in writing by certified mail, notice of the violations of Section 1770 of the CLRA, which notification demanded that Defendant rectify the problems associated with the actions detailed above and give notice to all affected consumers of its intent to so act.

134. Defendant failed to rectify or agree to rectify the problems associated with the actions detailed above or give notice to all consumers within 30 days of receipt of the CLRA notice. Accordingly, Plaintiff seeks damages, as permitted and appropriate.

## REQUEST FOR RELIEF

WHEREFORE, Plaintiff and members of the Class, respectfully request that the Court:

- a. Certify this case as a class action, designating Plaintiff as class representatives and designating the undersigned as Class Counsel;
- b. Declaring that Defendant's conduct violates the statutes set forth above;
- c. Award Plaintiff and the Class actual damages in an amount according to proof;
- d. Award Plaintiff and the Class restitution in an amount to be proven at trial;
- e. Award Plaintiff and the Class pre-judgment interest in the amount permitted by law;
- f. Award Plaintiff and their attorneys fees and costs as permitted by law;
- g. Declare Defendant's practices outlined herein to be unlawful;
- h. Grant equitable and/or injunctive relief, including to enjoin Defendant from engaging in the practices outlined herein;
- i. Grant Plaintiff and the Class a trial by jury;
- j. Grant leave to amend these pleadings to conform to evidence produced at trial; and
- k. Grant such other relief as the Court deems just and proper, including all forms of relief provided for under the UCL, CLRA, and FAL.

## JURY DEMAND

Plaintiff, by counsel, demands a trial by jury.



Dated: November 21, 2024

Respectfully submitted,

/s/



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*\* Pro Hac Vice application to be submitted*

*Counsel for Plaintiff and the Proposed Class*