

Christin Cho (Cal. Bar No. 238173)  
christin@dovel.com  
Simon Franzini (Cal. Bar No. 287631)  
simon@dovel.com  
Martin Brenner (Cal. Bar No. 333540)  
martin@dovel.com  
Grace Bennett (Cal. Bar No. 345948)  
grace@dovel.com  
DOVEL & LUNER, LLP  
201 Santa Monica Blvd., Suite 600  
Santa Monica, California 90401  
Telephone: (310) 656-7066  
Facsimile: (310) 656-7069

*Attorneys for Plaintiff*

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

DEBBIE LEI, individually and on behalf of all  
others similarly situated,

*Plaintiff,*

vs.

ZAZZLE INC.,

*Defendant.*

Case No. 24CU027803N

**CLASS ACTION COMPLAINT**

**JURY TRIAL DEMANDED**

- 1. False Advertising Law**
- 2. Consumer Legal Remedies Act**
- 3. Unfair Competition Law**
- 4. Breach of Contract**
- 5. Breach of Express Warranty**
- 6. Quasi-Contract/Unjust Enrichment**
- 7. Negligent Misrepresentation**
- 8. Intentional Misrepresentation**

*General Jurisdiction - Civil*

ELECTRONICALLY FILED  
Superior Court of California,  
County of San Diego

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Clerk of the Superior Court  
By I. Ledesma, Deputy Clerk

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**I. Introduction.**

1. Advertised “sale” prices are important to consumers. Consumers are more likely to purchase an item if they know that they are getting a good deal. Further, if consumers think that a sale will end soon, they are likely to buy now, rather than wait, comparison shop, and buy something else.

2. While there is nothing wrong with a legitimate sale, a fake one—that is, one with made-up regular prices, made-up discounts, and made-up expirations—is deceptive and illegal.

3. 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. Moreover, 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 advertising. Cal. Bus. & Prof. Code § 17501.

4. So, in addition to generally prohibiting untrue and misleading fake discounts, it also specifically prohibits the particular flavor of fake discount where the advertised former price is not the prevailing price during the specified timeframe.

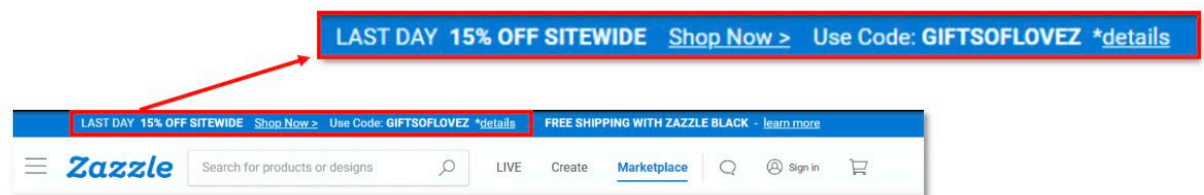
5. In addition, California’s Consumer Legal Remedies Act prohibits “advertising goods or services with the intent not to sell them as advertised” and specifically prohibits “false or misleading statements of fact concerning reasons for, existence of, or amounts of price reductions.” Cal. Civ. Code §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

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

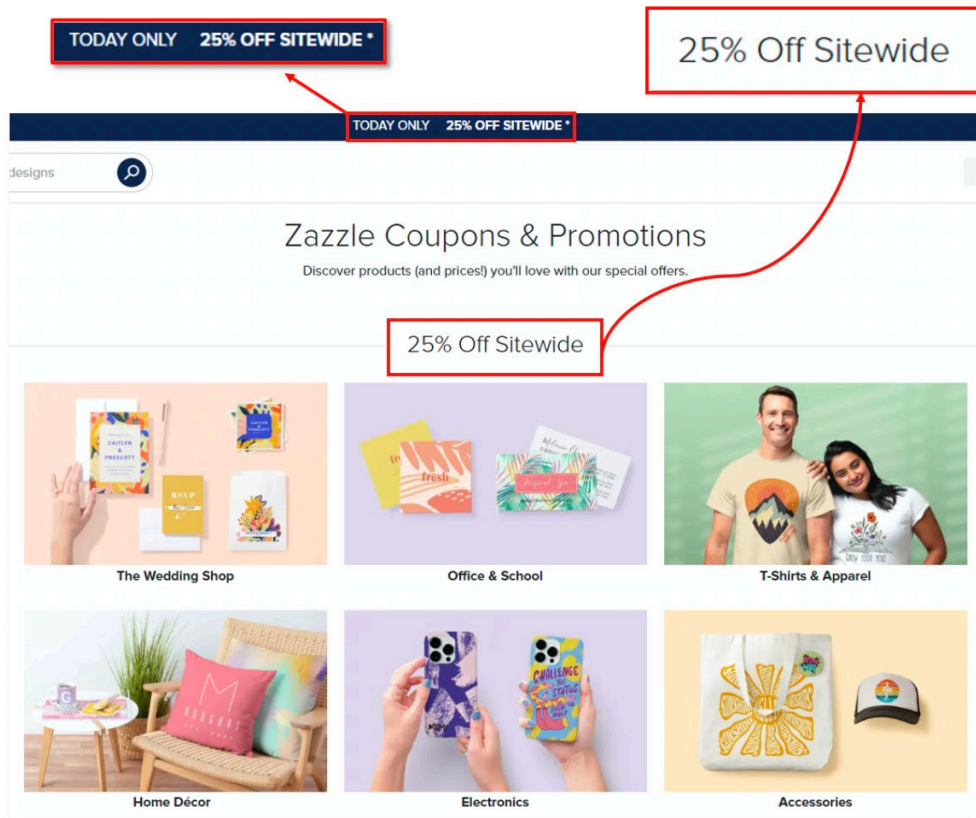
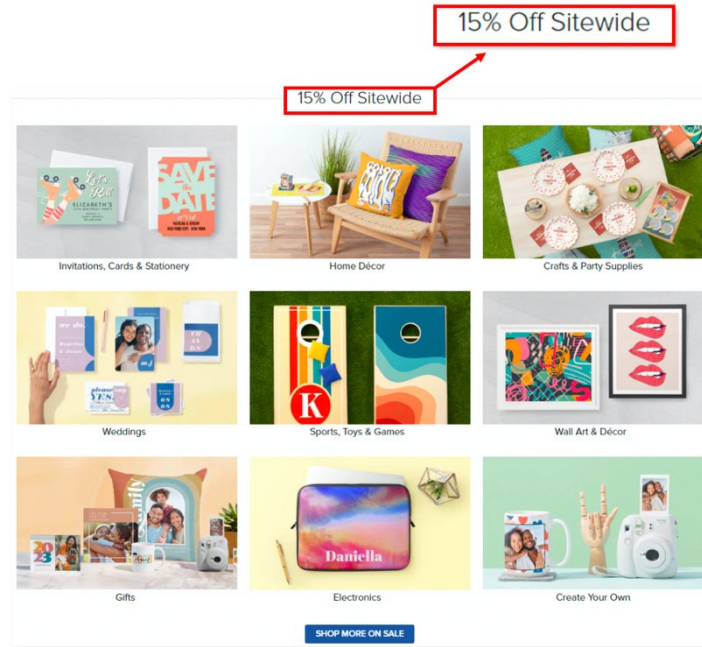
1           7.       So, as numerous courts have found, fake sales violate these laws. They also  
2 violate California’s general prohibition on unlawful, unfair, and deceptive business practices.  
3 *See* Cal. Bus. & Prof. Code § 17200.

4           8.       Defendant Zazzle Inc. (“Defendant” or “Zazzle”) makes, markets, and sells a  
5 variety of custom products including clothing, business and school supplies, crafts and party  
6 supplies, cards and invitations, and home décor items (“Zazzle Products” or “Products”). The  
7 Products are sold online through Defendant’s website, zazzle.com.

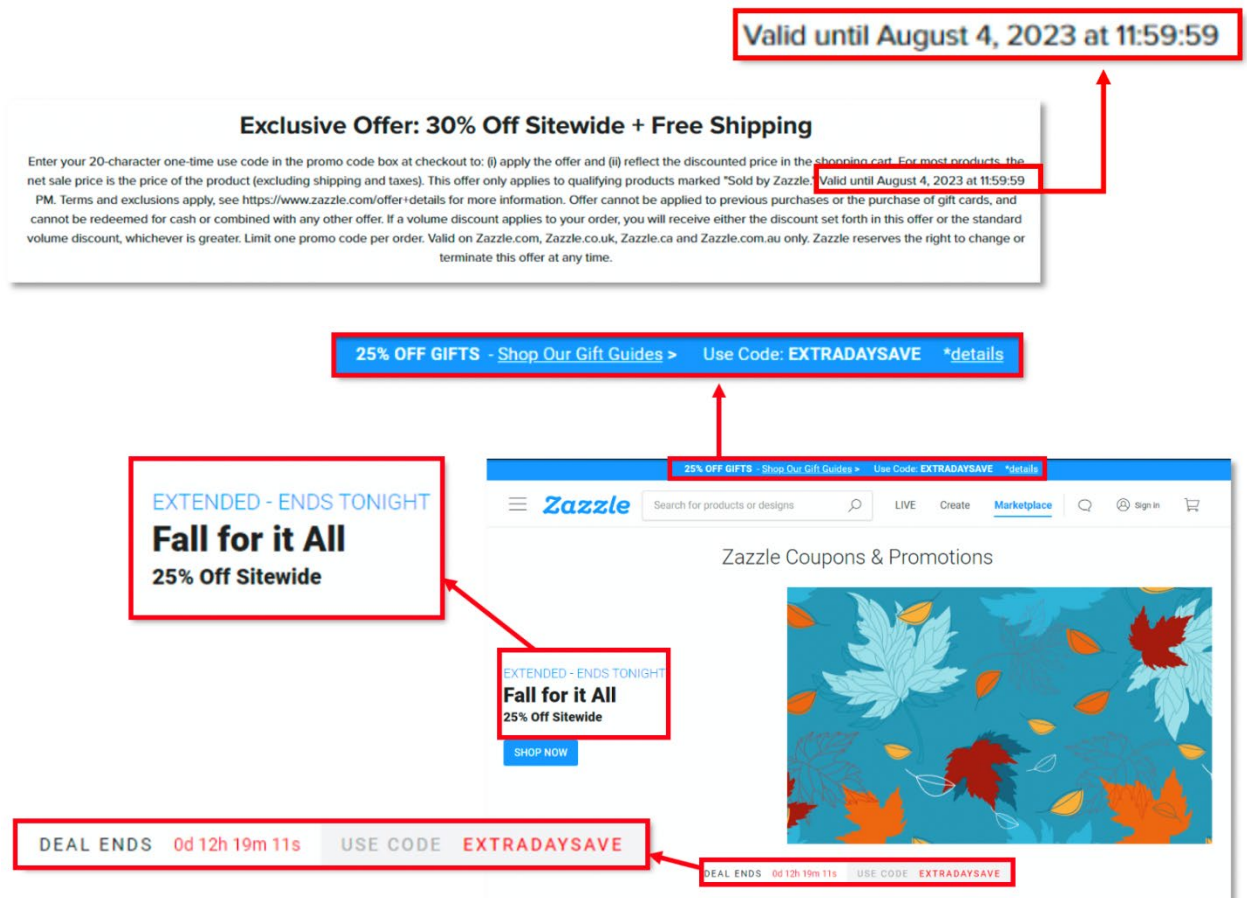
8           9.       On its website, Defendant advertised purportedly time-limited sales. These  
9 included time-limited discounts offering “X% Off.” These discounts were made available by  
10 using a discount code, such as “ENDAUGSALE02” and “SENDLOVE2022.” To show  
11 purported time-limited sales, the Defendant used countdown clocks to represent that its sales  
12 were on the verge of ending, and displayed time-limiting phrases such as: “TODAY ONLY!”;  
13 “LAST DAY”; “ENDS TONIGHT!”; and “DON’T MISS OUT[.]” Defendant also displayed on  
14 its Coupons & Promotions page of its website, “\*Limited time offer.” Defendant advertised that  
15 its sales were only valid for a certain period of time. Defendant also advertised that its Products  
16 had a lower discount price and a discount percentage, shown in attention-grabbing red font, as  
17 compared to a higher, regular price in strikethrough font. Below are examples:



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10. Far from being time-limited, however, Defendant’s discounts were pervasive and ongoing. As a result, Defendant’s price and purported discount advertising were false. The listed regular prices were not actually Defendant’s regular prices, because Defendant’s Products were routinely available for less than that. Indeed, Zazzle always had some sort of sale.<sup>1</sup> The purported discounts Defendant advertised were not the true discounts the customer was receiving, and were often not discounts at all. Nor were the purported discounts time-limited or valid only “until” certain dates—quite the opposite, they were repeatedly available.

11. As described in greater detail below, Plaintiff Debbie Lei bought Zazzle Products from Zazzle on zazzle.com on July 28, 2022, and January 2, 2023. Like Zazzle’s other customers, when Plaintiff bought these Products, Zazzle advertised that a purported sale was going on, and that the Products were heavily discounted. Plaintiff believed that the Zazzle Products that she purchased usually retailed for the displayed regular price. She further believed

<sup>1</sup> Zazzle appears to have ended its practice of advertising persistent sitewide sales on or around August 30, 2023.

1 that she was getting a substantial discount from the regular price, and that the sale would end  
2 soon. These reasonable beliefs are what caused her to buy from Defendant. If she had known  
3 that the Products she purchased were not on sale, she would not have bought them.

4 12. The representations Ms. Lei relied on, however, were not true. The listed regular  
5 prices were not the true regular prices, the purported “discounts” were not the true discounts, and  
6 the discounts were ongoing—not time-limited. Had Defendant been truthful, Ms. Lei and other  
7 consumers like her would not have purchased the Products, or would have paid less for them.

8 13. Plaintiff brings this case for herself and the other customers who purchased  
9 Zazzle’s Products.

## 10 **II. Parties.**

11 14. Plaintiff Debbie Lei is domiciled in Oakland, California.

12 15. The proposed class includes citizens of California, Washington, and Oregon.

13 16. Defendant Zazzle Inc. is a California corporation with its principal office at 1200  
14 Chestnut St., Menlo Park, CA 94025.

## 15 **III. Jurisdiction and venue.**

16 17. This court has personal jurisdiction over Defendant because Defendant sold  
17 Zazzle’s Products to consumers in California, including to Plaintiff.

18 18. Venue is proper here because Defendant does business in this county and a  
19 substantial portion of the transactions occurred in this county.

## 20 **IV. Facts.**

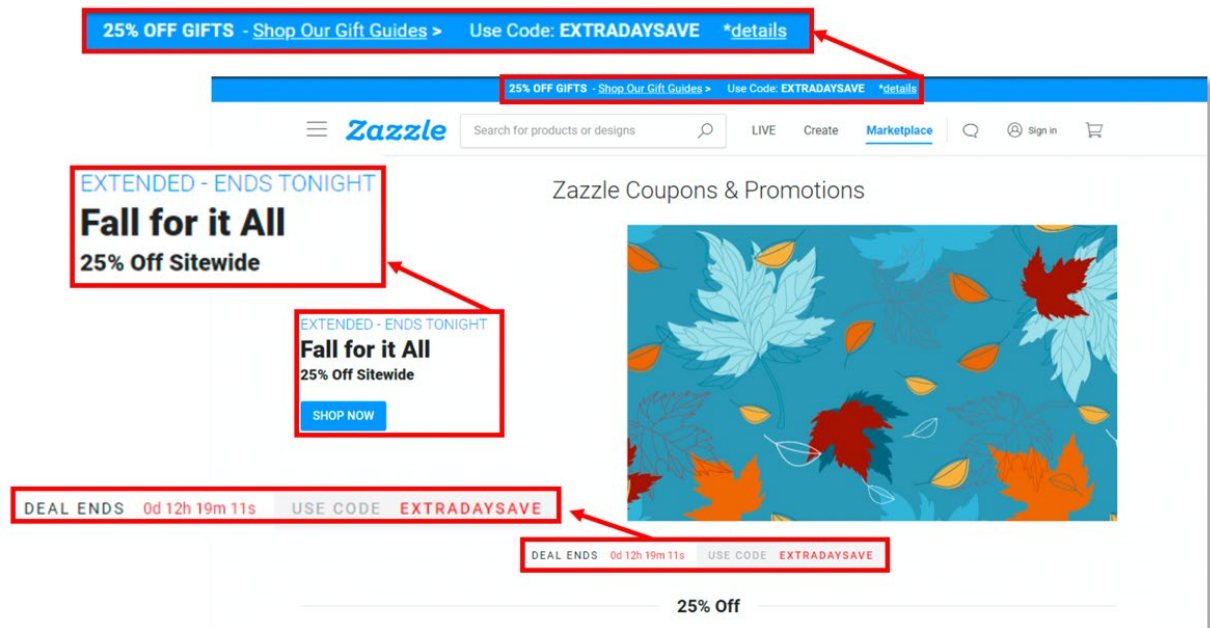
### 21 **A. Zazzle’s fake sales and fake discounts.**

22 19. Defendant Zazzle Inc. makes, markets, and sells a variety of custom products  
23 including clothing, school supplies, crafts and party supplies, cards and invitations, and home  
24 decor items. Defendant sells its Products directly to consumers through its website,  
25 www.zazzle.com.

26 20. For years, Defendant created the false impression that its Products’ regular prices  
27 were higher than they truly are.

21. Defendant persistently advertised steep discounts on its Products. These discounts routinely offered “X%” off of the regular prices Defendant advertised. In truth, these discounts ran in perpetuity. Defendant prominently claimed that they were time-limited discounts by using phrases, such as: “ENDS TONIGHT”; “LIMITED TIME”; “LAST DAY”; “TODAY ONLY!”; “DON’T MISS OUT”; and “THIS WEEKEND ONLY.”

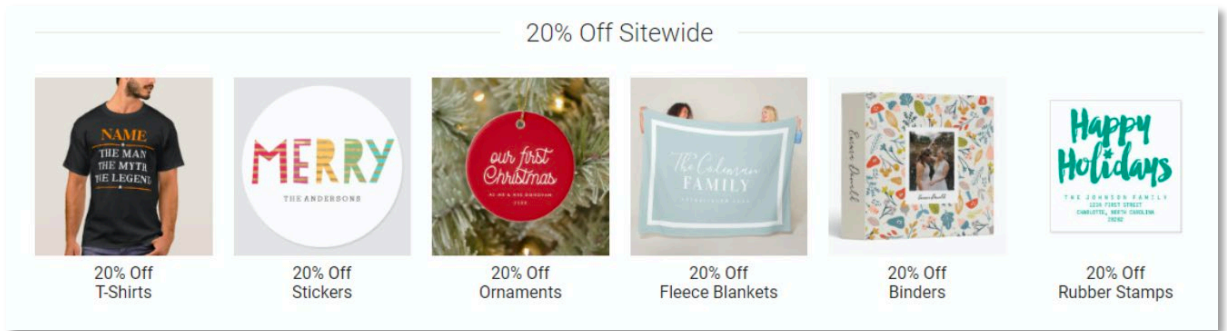
22. Defendant also used countdown clocks to represent that its sales were on the verge of ending. And it advertised these discounts extensively: on an attention-grabbing banners; with graphic art; with text; by showing examples of categories of Products on sale at a particular discount point; by displaying “\*Limited time offer” on its Coupons & Promotions webpage; with “valid until” and “valid from” language on its Offer Details webpage; by placing the discount percentage with the coupon code by a Product’s name and purported regular, higher price; by having a lower discount price and discount percentage shown in attention-grabbing red font as compared to a higher, regular price in strikethrough font; and by showing the purported discount on the individual product page as well as the shopping cart. For example:



*Captured October 7, 2020*



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*Captured October 15, 2021*



*Captured April 17, 2022*

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ENDS TONIGHT  
25% Off Sitewide  
Harness Your Creativity  
SHOP NOW

ENDS TONIGHT  
25% Off Sitewide  
Harness Your Creativity  
SHOP NOW

DEAL ENDS 0d 6h 59m 2s USE CODE MONDAY25DEAL

DEAL ENDS 0d 6h 59m 2s USE CODE MONDAY25DEAL

See Offer Details

Gifts in Time for Mother's Day

Best mom ever modern pink...  
\$16.70  
25% Off with code MONDAY25DEAL

Best mom ever modern pink...  
\$16.70  
25% Off with code MONDAY25DEAL

We Love You Mom Custom...  
\$34.50  
25% Off with code MONDAY25DEAL

TINLEY Boho Burnt Orange...  
\$19.50  
25% Off with code MONDAY25DEAL

Best Mom Ever Multi Photo...  
\$45.35  
25% Off with code MONDAY25DEAL

Custom Names Grandparents...  
\$29.50  
25% Off with code MONDAY25DEAL

STAR WARS DAY  
MAY THE 4TH  
BE WITH YOU

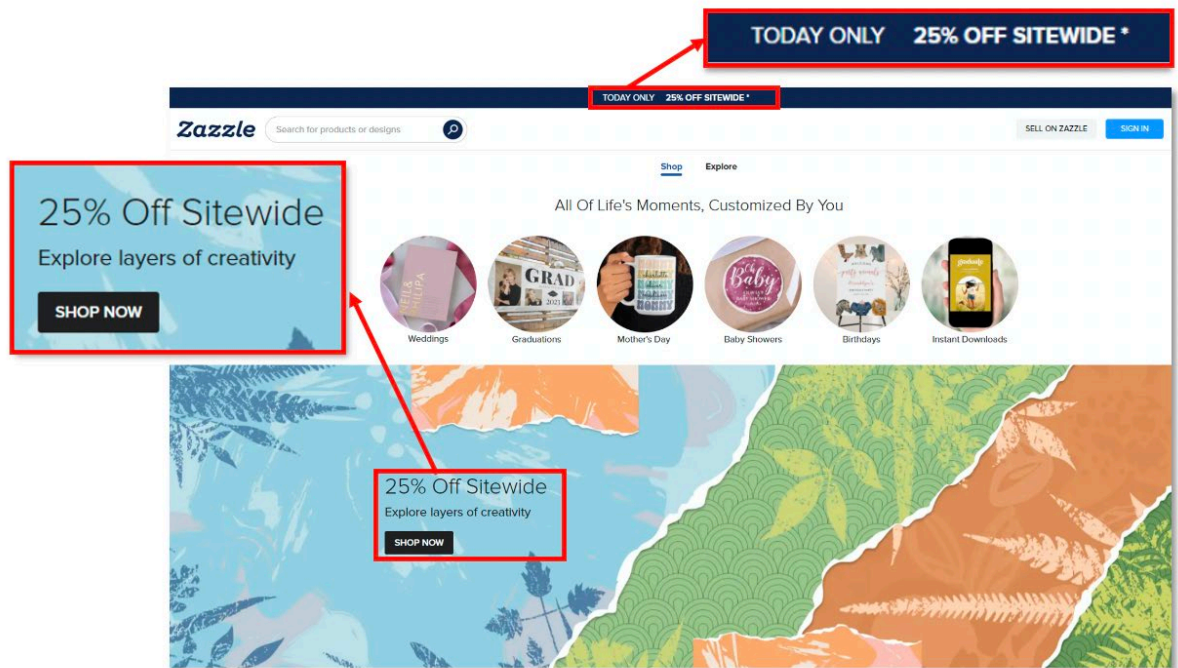
© & ™ Lucasfilm Ltd.

Captured May 2, 2022

20% Off Sitewide

DEAL ENDS 0d 20h 11m 21s USE CODE JUNEGIFTSALE

Captured June 8, 2022



*Captured March 16, 2023*



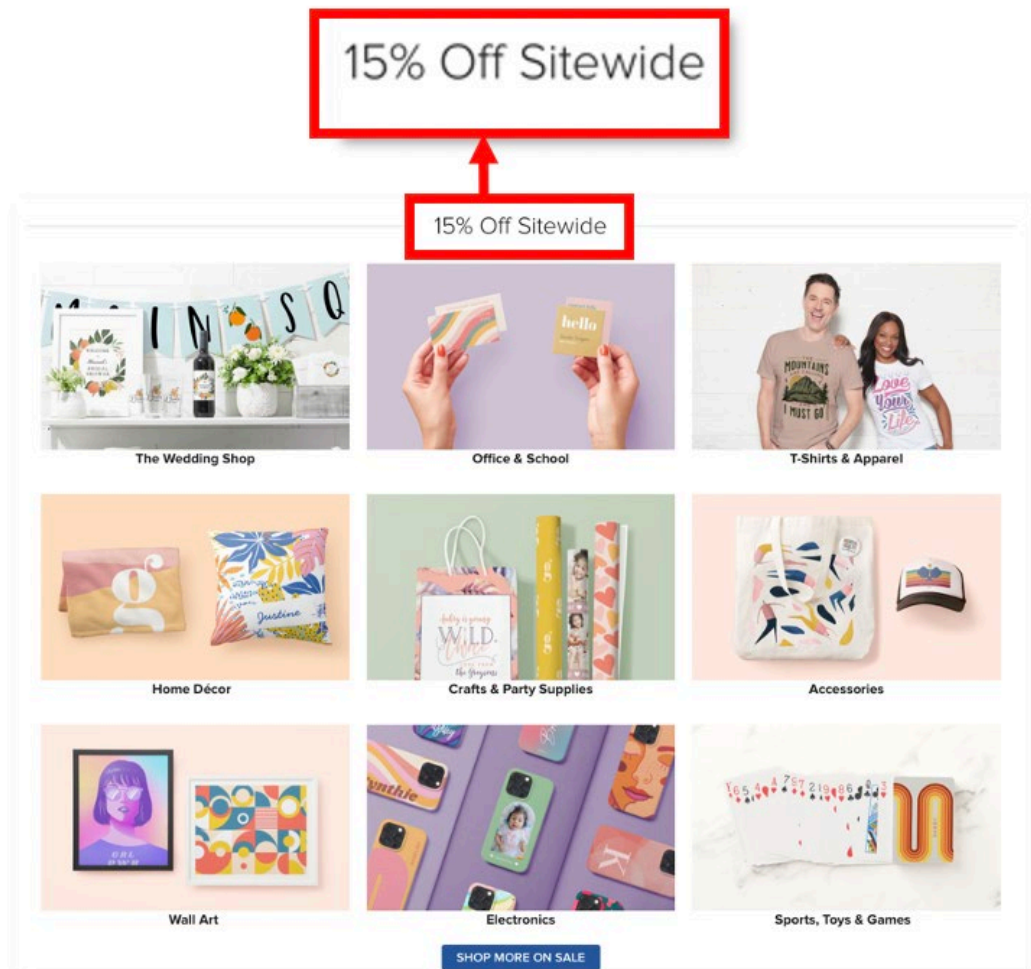
*Captured May 3, 2023*

23. Defendant's sales have persisted at least from October 7, 2020, through August 30, 2023. To confirm that Defendant persistently and pervasively offers discounts off of

1 purported regular prices, Plaintiff's counsel performed an investigation of Defendant's  
2 advertising practices using the Internet Archive's Wayback Machine (available at  
3 [www.archive.org](http://www.archive.org)).<sup>2</sup>

4 24. For example, during the month of January 2023, when Plaintiff made one of her  
5 purchases, Zazzle persistently advertised sitewide sales and stated that the sale would end soon.

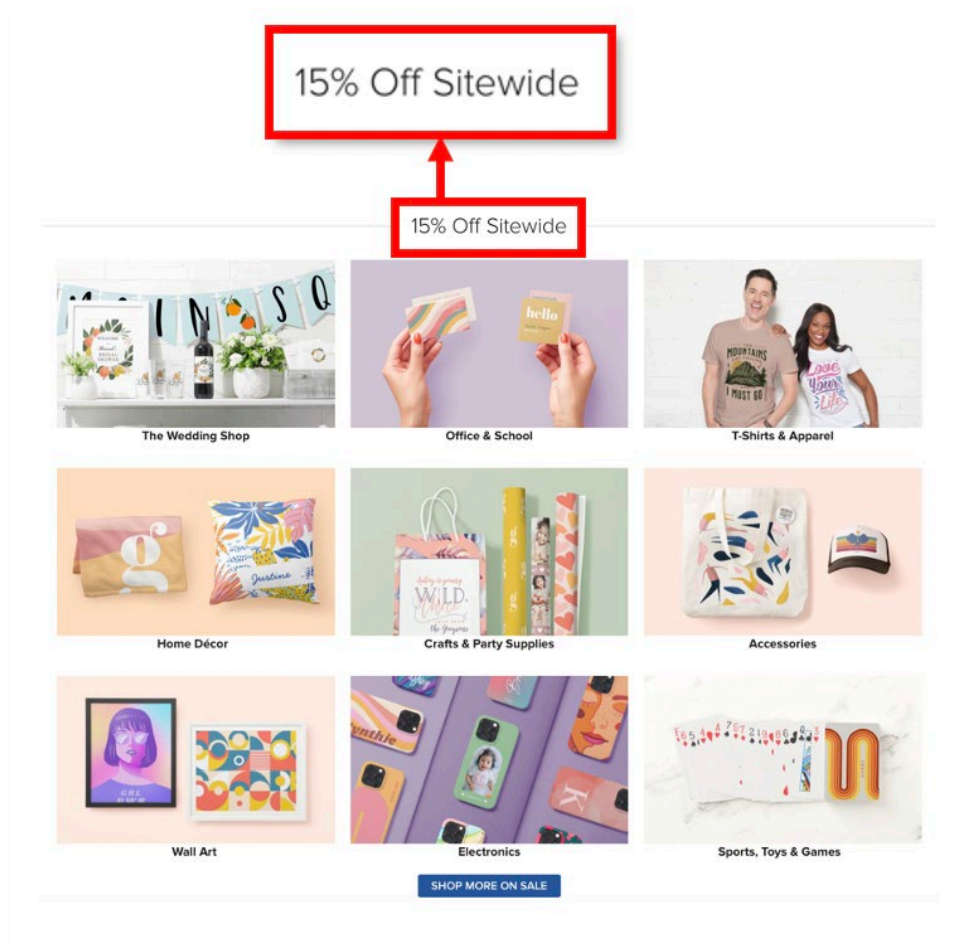
6 25. For example:



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24 *Captured January 2, 2023*

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28 <sup>2</sup> The Internet Archive, available at [archive.org](http://archive.org), is a library that archives web pages.  
<https://archive.org/about/>.





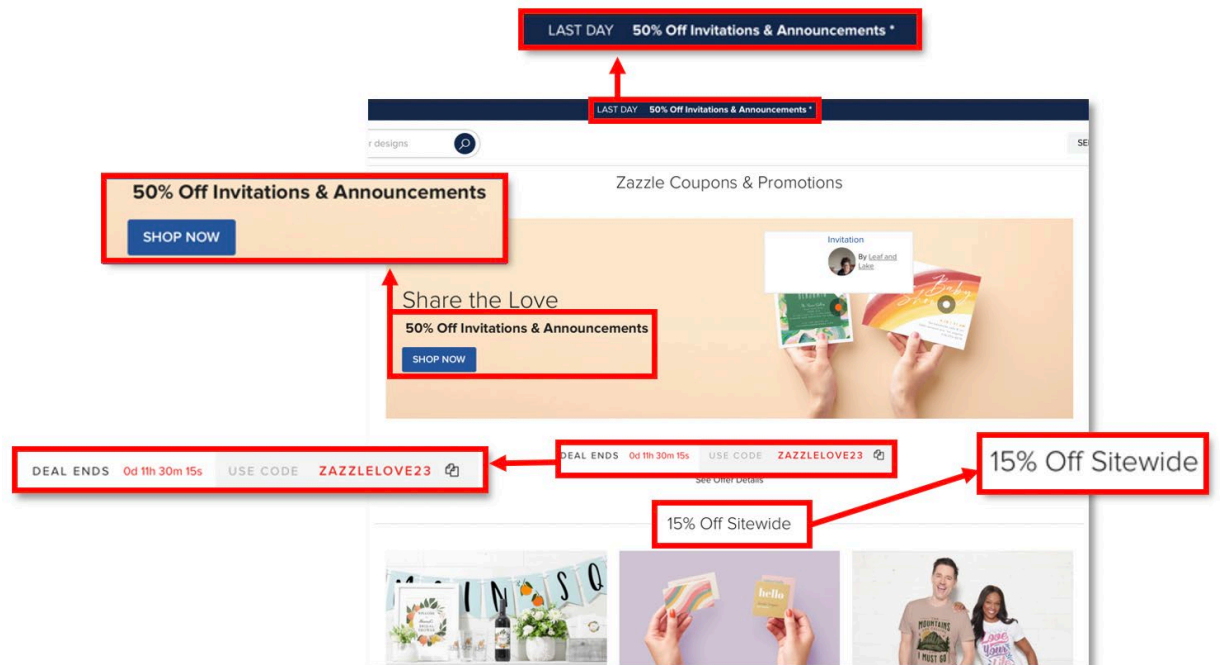
*Captured January 7, 2023*



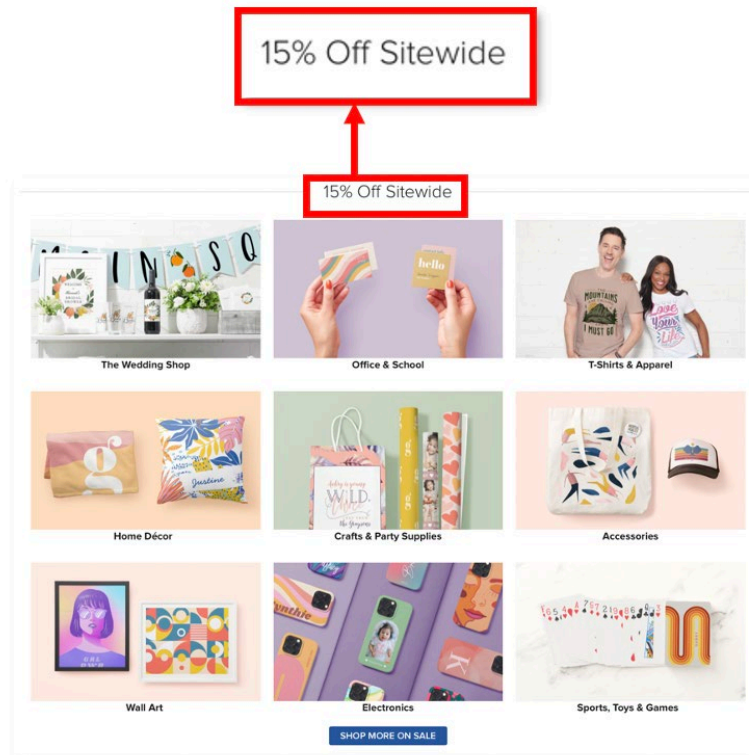
*Captured January 7, 2023*

26. On January 12, 2023, Zazzle advertised a sitewide discount of 15%, and represented that the deal was ending that day:

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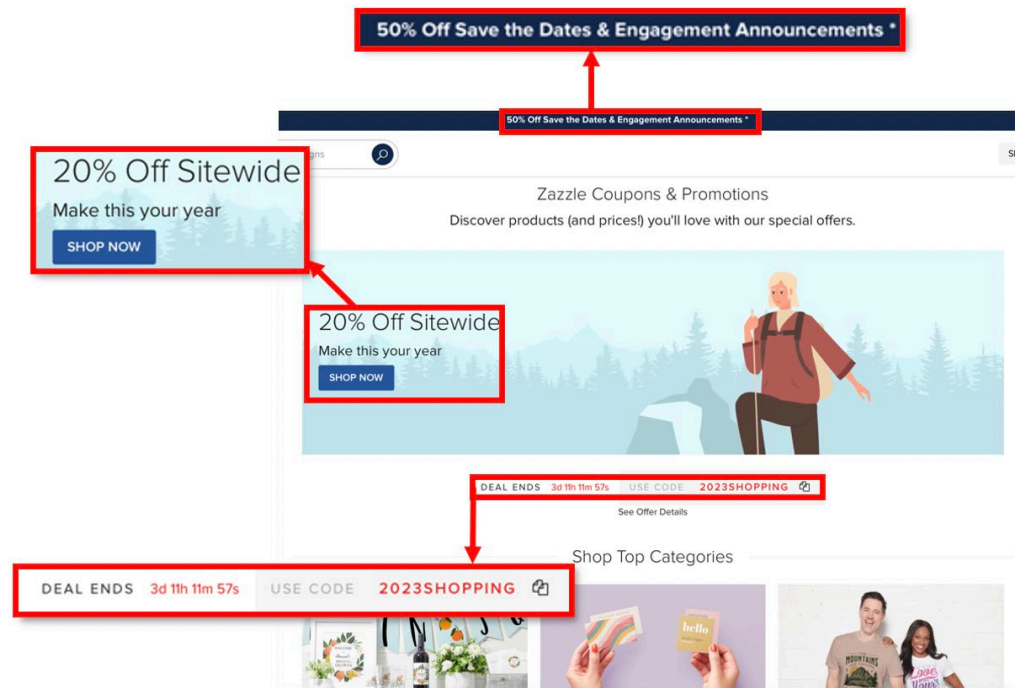


*Captured January 12, 2023*



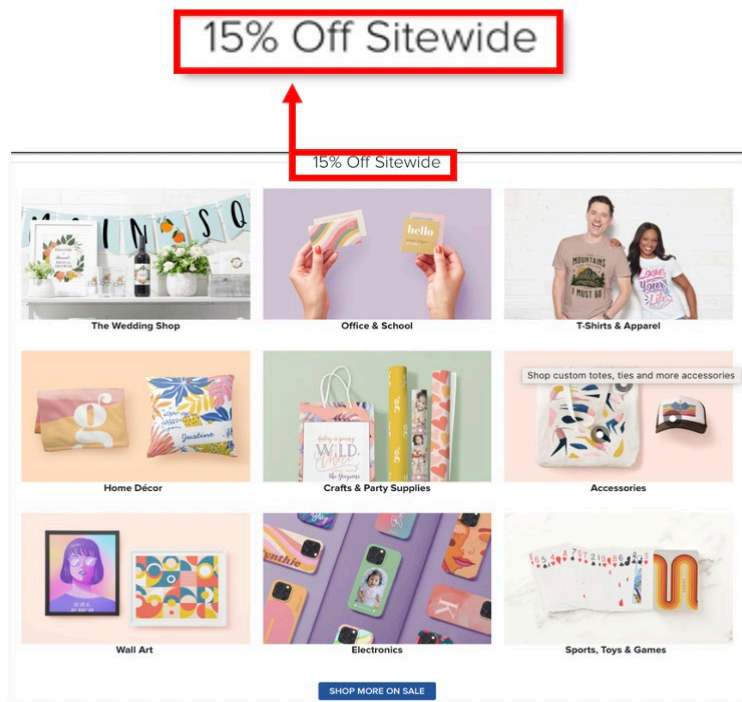
*Captured January 12, 2023*

27. But the sale did not expire. Instead, on January 13, 2023, Zazzle advertised yet another sitewide deal that would purportedly expire:



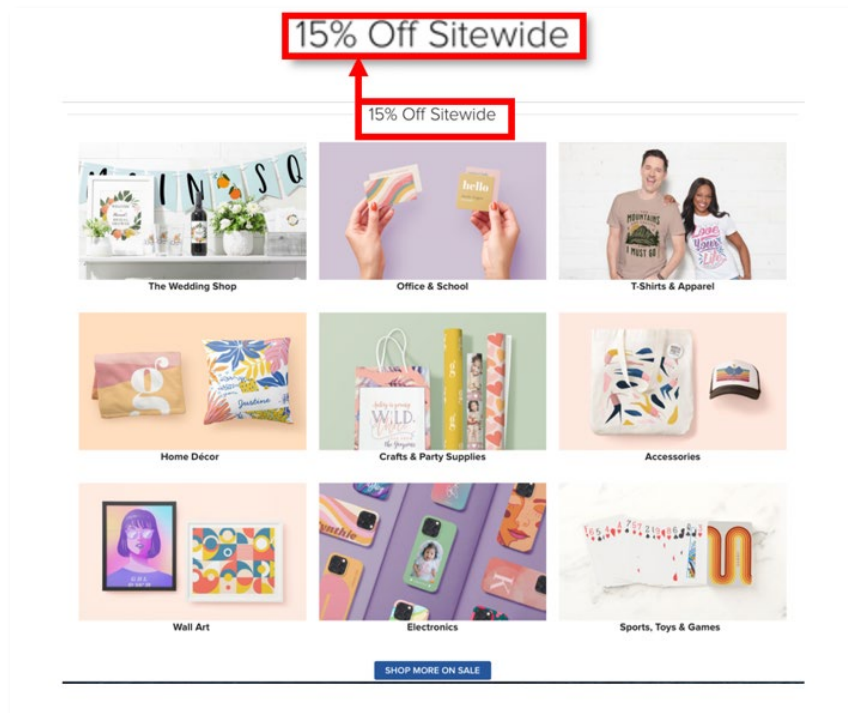
*Captured January 13, 2023*

28. These sales persisted repeatedly throughout the month, as shown below.

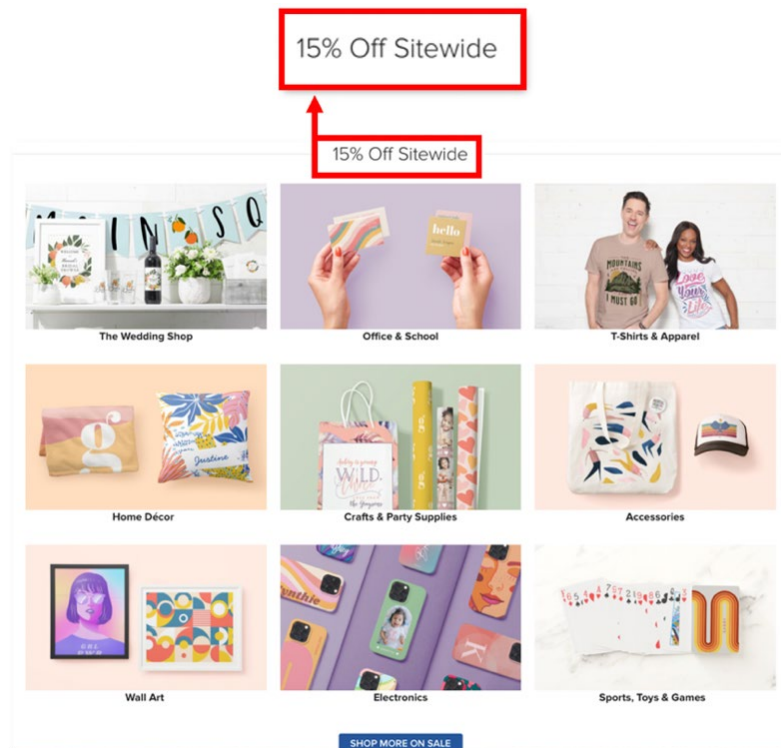


*Captured January 19, 2023*

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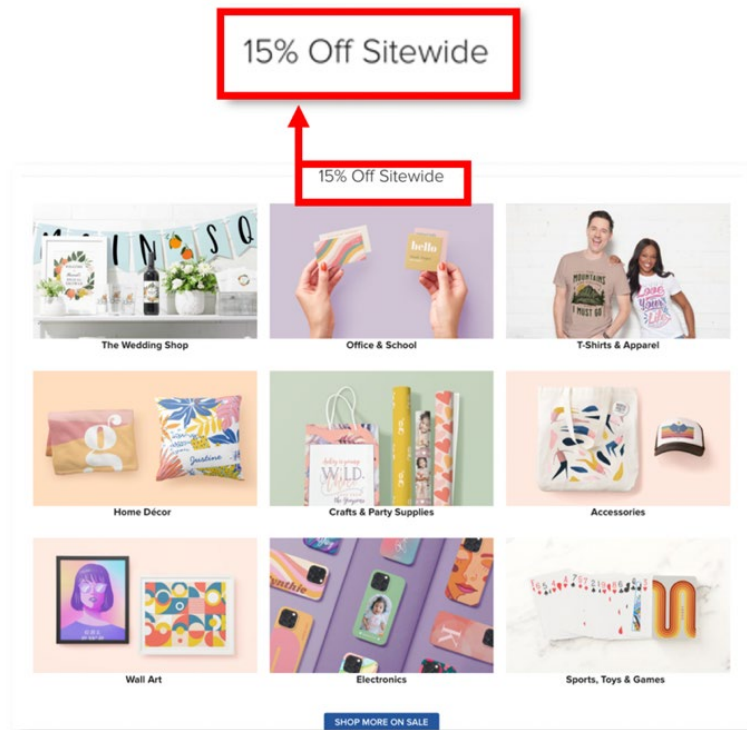
*Captured January 22, 2023*



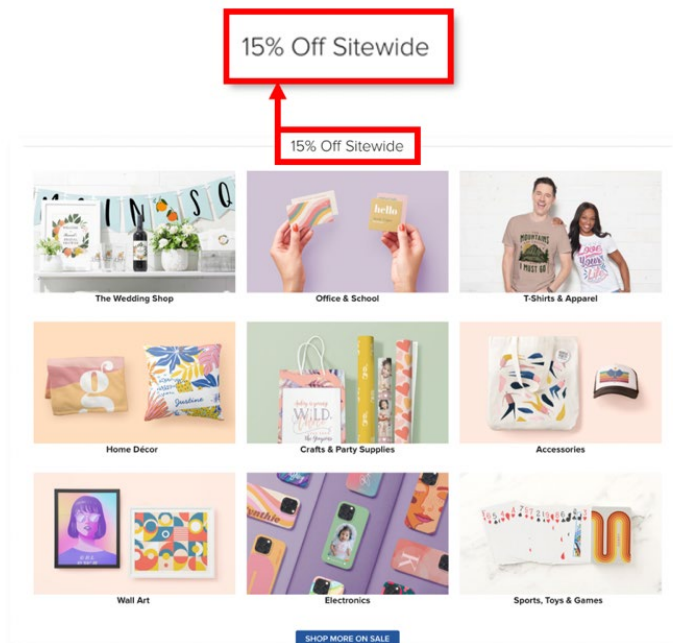
*Captured January 24, 2023*



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*Captured January 27, 2023*



*Captured January 30, 2023*

1           29.     Zazzle repeatedly represented that deals were “Limited time offer[s],” and used a  
2     countdown clock with language like “Deal Ends” to represent that the sale would end soon. But  
3     this was not true.

4           30.     Using these tactics, Defendant led reasonable consumers to believe that they  
5     would get a discount on the Products they were purchasing if they purchased during the “limited  
6     time” promotion. In other words, it led reasonable consumers to believe that if they bought now,  
7     they would get a Product worth X at a discounted, lower price Y. This created a sense of  
8     urgency: buy now, and you will receive something worth more than you pay for it; wait, and you  
9     will pay more for the same thing later.

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

18          32.     Reasonable consumers also reasonably believed that the regular prices Defendant  
19     advertised represented the true market value of the Products, and were the prevailing prices for  
20     those Products; and that they were receiving reductions from those regular prices in the amounts  
21     advertised. In truth, however, Defendant routinely offered discounts off of the purportedly  
22     regular prices it advertised. As a result, everything about Defendant’s prices and purported  
23     discount advertising was false. The regular prices Defendant advertised were not actually  
24     Defendant’s regular or former prices, or the prevailing prices for the Products Defendant sold,  
25     and did not represent the true market value for the Products, because Defendant’s Products were  
26     routinely available for less than that, and customers did not have to formerly pay that amount to  
27     get those items. The purported discounts Defendant advertised were not the true discounts the  
28

customer was receiving, and were often not discounts at all. Nor were the purported discounts “limited time” or “valid until” certain dates—quite the opposite, they were routinely available.

33. By listing fake regular prices and fake discounts, Defendant misled consumers into believing that they were getting a good deal.

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

34. 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.

35. Moreover, section 17501 of California’s False Advertising Law specifically 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 advertising. Cal. Bus. & Prof. Code § 17501.

36. 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).

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

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

39. Here, as described in detail above, Defendant made untrue and misleading statements about its prices. Defendant advertised regular prices that were not its true regular

1 prices, or its former prices, and were not the prevailing market price in the three months  
2 immediately preceding the advertisement. In addition, Defendant advertised goods or services  
3 with the intent not to sell them as advertised, for example, by advertising goods having certain  
4 former prices and/or market values without the intent to sell goods having those former prices  
5 and/or market values. Defendant made false or misleading statements of fact concerning the  
6 reasons for, existence of, and amounts of price reductions, including the existence of steep  
7 discounts, and the amounts of price reductions resulting from those discounts. And Defendant  
8 engaged in unlawful, unfair, and deceptive business practices.

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

10 40. Based on Defendant’s advertisements, reasonable consumers would expect that  
11 the listed regular prices were the regular prices at which Defendant usually sells its Products; that  
12 these were former prices that Defendant sold its Products at before introducing its time-limited  
13 discounts.

14 41. Reasonable consumers would also expect that, if they purchase during the sale,  
15 they would receive an item whose regular price and/or market value was the advertised regular  
16 price and that they would receive the advertised discount from the regular purchase price.

17 42. In addition, consumers are more likely to buy the product if they believe that the  
18 product is on sale and that they are purchasing a product with a higher regular price and/or  
19 market value at a substantial discount.

20 43. Consumers that are presented with discounts are substantially more likely to make  
21 the purchase. “Nearly two-thirds of consumers surveyed admitted that a promotion or a coupon  
22 often closes the deal, if they are wavering or are undecided on making a purchase.”<sup>3</sup> And, “two-  
23 thirds of consumers have made a purchase they weren’t originally planning to make solely based  
24 on finding a coupon or discount,” while “80% [of consumers] said they feel encouraged to make  
25 a first-time purchase with a brand that is new to them if they found an offer or discount.”<sup>4</sup>

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27 <sup>3</sup> <https://www.invespcro.com/blog/how-discounts-affect-online-consumer-buying-behavior/>.

28 <sup>4</sup> RetailMeNot Survey: Deals and Promotional Offers Drive Incremental Purchases Online, Especially Among Millennial Buyers (prnewswire.com).

1           44.     Similarly, when consumers believe that an offer is expiring soon, the sense of  
2 urgency makes them more likely to buy a product.<sup>5</sup>

3           45.     Thus, Defendant’s advertisements harm consumers by inducing them to make  
4 purchases based on false information. In addition, by this same mechanism, Defendant’s  
5 advertisements artificially increase consumer demand for Defendant’s Products. This puts  
6 upward pressure on the prices that Defendant can charge for its Products. As a result, Defendant  
7 can charge a price premium for its Products, that it would not be able to charge absent the  
8 misrepresentations described above.

9           46.     So, due to Defendant’s misrepresentations, Plaintiff and the class paid more for  
10 the Products they bought than they otherwise would have.

11           **D.     Plaintiff was misled by Defendant’s misrepresentations.**

12           47.     On July 28, 2022, Ms. Lei purchased five invitations from Defendant’s website.  
13 She made this purchase while living in Oakland, California. In the email order confirmation that  
14 Defendant sent to Ms. Lei, Defendant represented that each of those custom invitations had a  
15 regular price of \$1.95, and Ms. Lei was purchasing each for \$0.98—a \$0.97 discount. The  
16 regular price of the custom invitation on the email confirmation was in strikethrough font.

17           48.     On January 2, 2023, Ms. Lei purchased fifteen invitations from Defendant’s  
18 website. She made this purchase while living in Oakland, California. In the email order  
19 confirmation that Defendant sent to Ms. Lei, Defendant represented that those fifteen custom  
20 invitations had a regular price of \$42.00, and Ms. Lei was purchasing all of them for \$21.00—a  
21 \$21.00 discount. The regular price of the custom invitations on the email confirmation was in  
22 strikethrough font.

23           49.     Defendant represented that the Products had a certain regular price and that Ms.  
24 Lei was receiving a substantial discount for the items that she purchased.

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25                     <sup>5</sup> <https://cxl.com/blog/creating-urgency/> (addition of a countdown timer increased  
26 conversion rates from 3.4% to 10%); Dynamic email content leads to 400% increase in  
27 conversions for Black Friday email | Adestra  
28 (<https://uplandsoftware.com/adestra/resources/success-story/dynamic-email-content-leads-to-400-increase-in-conversions-for-black-friday-email/>) (400% higher conversation rate for ad with  
countdown timer).

1           50.     Ms. Lei read and relied on Defendant’s representations that the Products were  
2 being offered at a discount for a limited time and had the regular prices listed. Based on  
3 Defendant’s representations, Ms. Lei reasonably understood that the Products she was  
4 purchasing regularly (and before the promotion Defendant was advertising) retailed at the  
5 published regular price, that this regular price was the market value of the Products that she was  
6 buying, that she was receiving the advertised discount as compared to the regular price, and that  
7 the advertised discount was only available for a limited time (during the limited time promotion).  
8 She would not have made the purchases if she had known that the Products were not discounted  
9 as advertised and that she was not receiving the advertised discount.

10           **E.     Defendant breached its contract with and warranties to Ms. Lei and the**  
11           **putative class.**

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

17           52.     Defendant’s website and email confirmations list the market value of the items  
18 that Defendant promised to provide. Defendant agreed to provide a discount equal to the  
19 difference between the regular prices, and the prices paid by Ms. Lei and putative class members  
20 (also shown above for Ms. Lei as to her order confirmation email). For example, on January 2,  
21 2023, Defendant offered to provide Ms. Lei fifteen custom invitations, Chic Typography Photo  
22 Wedding Invitation, with a market value of \$42.00, for a total discounted price of \$21.00 plus  
23 tax, and to provide a discount of \$21.00. Defendant also warranted that the regular price and  
24 market value of the Product Ms. Lei purchased was the advertised list price and warranted that  
25 Ms. Lei was receiving a specific discount on the Product. As another example, on July 28, 2022,  
26 Defendant offered to provide Ms. Lei five custom invitations, Flat Invitation, Size 3.5” x 5”,  
27 Paper: Matte, Envelopes, with a market value of \$1.95 each, for a discounted price of \$0.98 each,  
28 and to provide a discount of \$0.97 each.

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

5           54.     Ms. Lei and other members of the putative class performed their obligations under  
6 the contract by paying for the items they purchased.

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

11           **F.     No adequate remedy at law.**

12           56.     Plaintiff seeks damages and, in the alternative, restitution. Plaintiff is permitted to  
13 seek equitable remedies in the alternative because she has no adequate remedy at law.

14           57.     A legal remedy is not adequate if it is not as certain as an equitable remedy. The  
15 elements of Plaintiff's equitable claims are different and do not require the same showings as  
16 Plaintiff's legal claims. For example, Plaintiff's FAL claim under section 17501 (an equitable  
17 claim) is predicated on a specific statutory provision, which prohibits advertising merchandise  
18 using a former price if that price was not the prevailing market price within the past three  
19 months. Cal. Bus. & Prof. Code § 17501. Plaintiff may be able to prove these more  
20 straightforward factual elements, and thus prevail under the FAL, while not being able to prove  
21 one or more elements of her legal claims.

22           58.     In addition, to obtain a full refund as damages, Plaintiff must show that the  
23 Products she bought has essentially no market value. In contrast, Plaintiff can seek restitution  
24 without making this showing. This is because Plaintiff purchased Products that she would not  
25 otherwise have purchased but for Defendant's representations. Obtaining a full refund at law is  
26 less certain than obtaining a refund in equity.

59. Furthermore, the remedies at law available to Plaintiff are not equally prompt or otherwise efficient. The need to schedule a jury trial may result in delay. And a jury trial will take longer, and be more expensive, than a bench trial.

**V. Class action allegations.**

60. Plaintiff brings the asserted claims on behalf of the proposed class of:

- All persons who, while in the states of California or Washington, purchased one or more products at a purported discount on Defendant's website Zazzle.com from July 1, 2020, to September 25, 2023.
- All persons who, while in the state of Oregon, purchased one or more products at a purported discount on Defendant's website Zazzle.com from July 1, 2023, to September 25, 2023.

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

***Numerosity & Ascertainability***

62. The proposed class contains members so numerous that separate joinder of each member of the class is impractical. There are at least thousands or tens of thousands of class members.

63. Class members can be identified through Defendant's sales records and public notice.

***Well-Defined Community of Interest (Predominance, Typicality, Adequacy)***

64. There are questions of law and fact common to the proposed class. These questions of law and fact are substantially similar to the entire class. These common questions



predominate over any individual questions. Common questions of law and fact include, without limitation:

- (1) whether Defendant made false or misleading statements of fact in its advertisements;
- (2) whether Defendant violated California's consumer protection statutes;
- (3) whether Defendant committed a breach of contract;
- (4) whether Defendant committed a breach of an express warranty; and
- (5) damages needed to reasonably compensate Plaintiff and the proposed class.

65. Plaintiff's claims are typical of the proposed class. Like the proposed class, Plaintiff purchased the Zazzle Products advertised at a discount from Defendant. There are no conflicts of interest between Plaintiff and the class. Plaintiff will adequately protect the interests of the class.

### ***Superiority***

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

## **VI. Claims.**

### **First Cause of Action:**

#### **Violation of California's False Advertising Law, Bus. & Prof. Code §§ 17500 et. seq.**

#### **(By Plaintiff and the Class)**

67. Plaintiff incorporates each and every factual allegation set forth above.

68. Plaintiff brings this cause of action on behalf of herself and members of the class.

69. Defendant has violated sections 17500 and 17501 of the Business and Professions Code.

1           70. Defendant has violated section 17500 of the Business and Professions Code by  
2 disseminating untrue and misleading advertisements to Plaintiff and class members.

3           71. As alleged more fully above, Defendant advertised former prices along with  
4 discounts. Defendant did this, for example, by crossing out a higher price (*e.g.*, \$47.40) and  
5 displaying it by a lower, discounted price. Reasonable consumers would understand prices  
6 advertised in strikethrough font from which time-limited discounts are calculated to denote  
7 “former” prices, *i.e.*, the prices that Defendant charged before the time-limited discount went  
8 into effect.

9           72. The prices advertised by Defendant were not Defendant’s regular prices. Those  
10 prices were not Defendant’s regular prices (*i.e.*, the price you usually have to pay to get the  
11 Product in question) because there routinely was a heavily-advertised promotion ongoing  
12 entitling consumers to a discount. Indeed, the Defendant always offered a sale of some sort.  
13 Moreover, for the same reasons, those prices were not the former prices of the Products.  
14 Accordingly, Defendant’s statements about the former prices of its Products, and its statements  
15 about its discounts from those former prices, were untrue and misleading. In addition,  
16 Defendant’s statements that its discounts were limited time and valid only “until” certain dates  
17 are false and misleading too.

18           73. In addition, Defendant has violated section 17501 of the Business and Professions  
19 Code by advertising former prices that were not the prevailing market price within three months  
20 next immediately preceding the advertising. As explained above, Defendant’s advertised regular  
21 prices, which reasonable consumers would understand to denote former prices, were not the  
22 prevailing market prices for the Products within three months preceding publication of the  
23 advertisement. And Defendant’s former price advertisements did not state clearly, exactly, and  
24 conspicuously when, if ever, the former prices prevailed. Defendant’s advertisements did not  
25 indicate whether or when the purported former prices were offered at all.

26           74. Defendant’s misrepresentations were intended to induce reliance, and Plaintiff  
27 saw, read, and reasonably relied on the statements when purchasing Zazzle Products.  
28 Defendant’s misrepresentations were a substantial factor in Plaintiff’s purchase decision.

1           75.     In addition, class-wide reliance can be inferred because Defendant's  
2 misrepresentations were material, i.e., a reasonable consumer would consider them important in  
3 deciding whether to buy the Zazzle Products.

4           76.     Defendant's misrepresentations were a substantial factor and proximate cause in  
5 causing damages and losses to Plaintiff and the class.

6           77.     Plaintiff and the class were injured as a direct and proximate result of Defendant's  
7 conduct because (a) they would not have purchased Zazzle Products if they had known the truth,  
8 and/or (b) they overpaid for the Products because the Zazzle Products were sold at a price  
9 premium due to the misrepresentation.

10                               **Second Cause of Action:**

11                               **Violation of California's Consumer Legal Remedies Act**

12                               **(By Plaintiff and the Class)**

13           78.     Plaintiff incorporates each and every factual allegation set forth above.

14           79.     Plaintiff brings this cause of action on behalf of herself and members of the class.

15           80.     Plaintiff and the class are "consumers," as the term is defined by California Civil  
16 Code § 1761(d).

17           81.     Plaintiff and the class have engaged in "transactions" with Defendant as that term  
18 is defined by California Civil Code § 1761(e).

19           82.     The conduct alleged in this Complaint constitutes unfair methods of competition  
20 and unfair and deceptive acts and practices for the purpose of the CLRA, and the conduct was  
21 undertaken by Defendant in transactions intended to result in, and which did result in, the sale of  
22 goods to consumers.

23           83.     As alleged more fully above, Defendant made and disseminated untrue and  
24 misleading statements of facts in its advertisements to class members. Defendant did this by  
25 using fake regular prices, i.e., regular prices that were not the prevailing prices, and by  
26 advertising fake discounts.

27           84.     Defendant violated section 1770 of the California Civil Code.  
28

1           85. Defendant violated section 1770(a)(5) of the California Civil Code by  
2 representing that Products offered for sale have characteristics or benefits that they do not have.

3           86. Defendant represented that the value of its Products is greater than it actually was  
4 by advertising inflated regular prices and fake discounts for Products.

5           87. Defendant violated section 1770(a)(9) of the California Civil Code.

6           88. Defendant violated this by advertising its Products as being offered at a discount,  
7 when in fact Defendant did not intend to sell the Products at a discount.

8           89. And Defendant violated section 1770(a)(13) by making false or misleading  
9 statements of fact concerning reasons for, existence of, or amounts of, price reductions on its  
10 website, including by (1) misrepresenting the regular price of Products on its website, (2)  
11 advertising discounts and savings that are exaggerated or nonexistent, (3) misrepresenting that  
12 the discounts and savings are unusually large, when in fact they are regularly available, (4)  
13 misrepresenting the reason for sales (*e.g.*, “Easter Sale,” when in fact the sales are ongoing and  
14 not limited to Easter).

15           90. Defendant’s representations were likely to deceive, and did deceive, Plaintiff and  
16 reasonable consumers. Defendant knew, or should have known through the exercise of  
17 reasonable care, that these statements were inaccurate and misleading.

18           91. Defendant’s misrepresentations were intended to induce reliance, and Plaintiff  
19 saw, read, and reasonably relied on them when purchasing Zazzle Products. Defendant’s  
20 misrepresentations were a substantial factor in Plaintiff’s purchase decision.

21           92. In addition, classwide reliance can be inferred because Defendant’s  
22 misrepresentations were material, *i.e.*, a reasonable consumer would consider them important in  
23 deciding whether to buy the Zazzle Products.

24           93. Defendant’s misrepresentations were a substantial factor and proximate cause in  
25 causing damages and losses to Plaintiff and the class.

26           94. Plaintiff and the class were injured as a direct and proximate result of Defendant’s  
27 conduct because (a) they would not have purchased Zazzle Products if they had known the  
28 discounts and/or regular prices were not real, (b) they overpaid for the Products because the

1 Products were sold at a price premium due to the misrepresentation, and/or (c) they received  
2 Products with market values lower than the promised market values.

3 95. Accordingly, pursuant to California Civil Code § 1780(a)(2), Ms. Lei, on behalf  
4 of herself and all other members of the class, seeks injunctive relief.

5 96. CLRA § 1782 NOTICE. On September 7, 2023, a CLRA demand letter was sent  
6 to Defendant's registered agent via certified mail (return receipt requested) that provided notice  
7 of Defendant's violations of the CLRA and demanded that Defendant correct the unlawful,  
8 unfair, false and/or deceptive practices alleged here. It has been more than 30 days since  
9 Defendant received notice of its CLRA violations. In that time, it has not corrected the problem  
10 for Plaintiff or for members of the class. Accordingly, Plaintiff seeks all monetary relief  
11 available under the CLRA.

12 97. A CLRA venue declaration is attached.

13 **Third Cause of Action:**

14 **Violation of California's Unfair Competition Law**

15 **(By Plaintiff and the Class)**

16 98. Plaintiff incorporates each and every factual allegation set forth above.

17 99. Plaintiff brings this cause of action on behalf of herself and members of the class.

18 100. Defendant has violated California's Unfair Competition Law (UCL) by engaging  
19 in unlawful, fraudulent, and unfair conduct (i.e., violating each of the three prongs of the UCL).

20 ***The Unlawful Prong***

21 101. Defendant engaged in unlawful conduct by violating the CLRA and FAL, as  
22 alleged above and incorporated here. In addition, Defendant engaged in unlawful conduct by  
23 violating the FTCA. The FTCA prohibits "unfair or deceptive acts or practices in or affecting  
24 commerce" and prohibits the dissemination of false advertisements. 15 U.S.C. § 45(a)(1). As  
25 the FTC's regulations make clear, Defendant's false pricing schemes violate the FTCA. 16  
26 C.F.R. § 233.1, § 233.2

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103. Defendant's representations were misleading to Plaintiff and other reasonable consumers.

### *The Unfair Prong*

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

108. Plaintiff and the class could not have reasonably avoided this injury. As alleged above, Defendant's representations were deceptive to reasonable consumers like Plaintiff.

\* \* \*

30

111. In addition, classwide reliance can be inferred because Defendant's representations were material, i.e., a reasonable consumer would consider them important in deciding whether to buy Zazzle's Products. Defendant's representations were a substantial factor and proximate cause in causing damages and losses to Plaintiff and the class members.

112. Plaintiff and the class were injured as a direct and proximate result of Defendant's conduct because (a) they would not have purchased the Zazzle's Products if they had known that they were not discounted, and/or (b) they overpaid for the Products because the Products were sold at the regular price and not at a discount.

**Fourth Cause of Action:**

## Breach of Contract

**(By Plaintiff and the Class)**

113. Plaintiff incorporates each and every factual allegation set forth above.

114. Plaintiff brings this cause of action on behalf of herself and the class.

115. Plaintiff and class members entered into contracts with Defendant when they placed orders to purchase Products on Defendant's website.

116. The contracts provided that Plaintiff and class members would pay Defendant for the Products purchased.

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

118. Each specific discount was a specific and material term of each contract.

119. Plaintiff and class members paid Defendant for the Products they purchased, and satisfied all other conditions of their contracts.

120. Defendant breached its contracts with Plaintiff and class members by failing to provide Products that had a regular price, former price, and/or prevailing market value equal to

1 the regular price displayed on its website, and by failing to provide the promised discount.  
2 Defendant did not provide the discount that it had promised.

3 121. Plaintiff provided Defendant with notice of this breach of contract, by mailing a  
4 notice letter to Defendant's headquarters and registered agent on September 7, 2023.

5 122. As a direct and proximate result of Defendant's breaches, Plaintiff and class  
6 members were deprived of the benefit of their bargained-for exchange, and have suffered  
7 damages in an amount to be established at trial.

8 **Fifth Cause of Action:**

9 **Breach of Express Warranty**

10 **(By Plaintiff and the Class)**

11 123. Plaintiff incorporates each and every factual allegation set forth above.

12 124. Plaintiff brings this cause of action on behalf of herself and members of the class.

13 125. Defendant, as the marketer, distributor, supplier, and/or seller of the Zazzle's  
14 Products, issued material, written warranties by advertising that the Products had a prevailing  
15 market value equal to the regular price displayed on Defendant's website. This was an  
16 affirmation of fact about the Products (i.e., a representation about the market value) and a  
17 promise relating to the goods.

18 126. This warranty was part of the basis of the bargain and Plaintiff and members of  
19 the class relied on this warranty.

20 127. In fact, the Zazzle's Products' stated market value was not the prevailing market  
21 value. Thus, the warranty was breached.

22 128. Plaintiff provided Defendant with notice of this breach of warranty, by mailing a  
23 notice letter to Defendant's headquarters and registered agent on September 7, 2023.

24 129. Plaintiff and the class were injured as a direct and proximate result of Defendant's  
25 breach, and this breach was a substantial factor in causing harm, because (a) they would not have  
26 purchased Zazzle's Products if they had known that the warranty was false, or (b) they overpaid  
27 for the Products because the Products were sold at a price premium due to the warranty.  
28



**Sixth Cause of Action:**  
**Quasi-Contract/Unjust Enrichment**  
**(By Plaintiff and the Class)**

130. Plaintiff incorporates each and every factual allegation in paragraphs 1-50 and 56-66 above.

131. Plaintiff brings this cause of action in the alternative to her Breach of Contract claim (Claim IV) on behalf of herself and the class.

132. As alleged in detail above, Defendant's false and misleading advertising caused Plaintiff and the class to purchase Zazzle's Products and to pay a price premium for these Products.

133. In this way, Defendant received a direct and unjust benefit, at Plaintiff's expense.

134. (In the alternative only), due to Defendant's misrepresentations, its contracts with Plaintiff and other class members are voidable.

135. Plaintiff and the class seek restitution, and in the alternative, rescission.

**Seventh Cause of Action:**  
**Negligent Misrepresentation**  
**(By Plaintiff and the Class)**

136. Plaintiff incorporates each and every factual allegation set forth above.

137. Plaintiff brings this cause of action on behalf of herself and members of the class.

138. As alleged more fully above, Defendant made false representations and material omissions of fact to Plaintiff and class members concerning the existence and/or nature of the discounts and savings advertised.

139. These representations were false.

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

141. Defendant intended that Plaintiff and class members rely on these representations and Plaintiff and class members read and reasonably relied on them.

1           142. In addition, classwide reliance can be inferred because Defendant's  
2 misrepresentations were material, i.e., a reasonable consumer would consider them important in  
3 deciding whether to buy Zazzle's Products.

4           143. Defendant's misrepresentations were a substantial factor and proximate cause in  
5 causing damages and losses to Plaintiff and class members.

6           144. Plaintiff and class members were injured as a direct and proximate result of  
7 Defendant's conduct because (a) they would not have purchased Zazzle's Products if they had  
8 known that the representations were false, and/or (b) they overpaid for the Products because the  
9 Products were sold at a price premium due to the misrepresentation.

10                                   **Eighth Cause of Action:**

11                                   **Intentional Misrepresentation**

12                                   **(By Plaintiff and the Class)**

13           145. Plaintiff incorporates each and every factual allegation set forth above.

14           146. Plaintiff brings this cause of action on behalf of herself and members of the class.

15           147. As alleged more fully above, Defendant made false representations and material  
16 omissions of fact to Plaintiff and class members concerning the existence and/or nature of the  
17 discounts and savings advertised.

18           148. These representations were false.

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

21           150. Defendant intended that Plaintiff and class members rely on these representations  
22 and Plaintiff and class members read and reasonably relied on them.

23           151. In addition, classwide reliance can be inferred because Defendant's  
24 misrepresentations were material, i.e., a reasonable consumer would consider them important in  
25 deciding whether to buy the Zazzle's Products.

26           152. Defendant's misrepresentations were a substantial factor and proximate cause in  
27 causing damages and losses to Plaintiff and class members.

1           153. Plaintiff and class members were injured as a direct and proximate result of  
2 Defendant's conduct because (a) they would not have purchased Zazzle's Products if they had  
3 known that the representations were false, and/or (b) they overpaid for the Products because the  
4 Products were sold at a price premium due to the misrepresentation.

5 **VII. Prayer for Relief.**

6           154. Plaintiff seeks the following relief for herself and the class:

- 7           • An order certifying the asserted claims, or issues raised, as a class action;
- 8           • A judgment in favor of Plaintiff and the proposed class;
- 9           • Damages, treble damages, and punitive damages where applicable;
- 10          • Restitution;
- 11          • Rescission;
- 12          • Disgorgement, and other just equitable relief;
- 13          • Pre- and post-judgment interest;
- 14          • An injunction prohibiting Defendant's deceptive conduct, as allowed by law;
- 15          • Reasonable attorneys' fees and costs, as allowed by law;
- 16          • Any additional relief that the Court deems reasonable and just.

16 **VIII. Jury Trial Demand.**

17           155. Plaintiff demands the right to a jury trial on all claims so triable.  
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1 Dated: December 12, 2024

Respectfully submitted,

2 By: /s/ Christin Cho

3 Christin Cho (Cal. Bar No. 238173)

4 christin@dovel.com

5 Simon Franzini (Cal. Bar No. 287631)

6 simon@dovel.com

7 Martin Brenner (Cal. Bar No. 333540)

8 martin@dovel.com

9 Grace Bennett (Cal. Bar No. 345948)

10 grace@dovel.com

11 DOVEL & LUNER, LLP

12 201 Santa Monica Blvd., Suite 600

13 Santa Monica, California 90401

14 Telephone: (310) 656-7066

15 Facsimile: (310) 656-7069

16 *Attorneys for Plaintiff*

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