

1 **KJC LAW GROUP, A.P.C.**
2 Kevin J. Cole (SBN 321555)
3 *kevin@kjclawgroup.com*
4 W. Blair Castle (SBN 354085)
5 *blair@kjclawgroup.com*
6 9701 Wilshire Blvd., Suite 1000
7 Beverly Hills, CA 90212
8 Telephone: (310) 861-7797

9
10 Attorneys for Plaintiff
11 *Anna Fischer*
12

13
14 **UNITED STATES DISTRICT COURT**
15 **CENTRAL DISTRICT OF CALIFORNIA**

16 ANNA FISCHER, individually and
17 on behalf of all others similarly
18 situated,

19 Plaintiff,

20 v.

21 1300 BROOKHAVEN, LLC, a
22 Delaware limited liability company;
23 and DOES 1 to 10, inclusive,

24 Defendants.

25 CASE NO.

26 CLASS ACTION COMPLAINT
27 FOR:

1. **Unjust Enrichment;**
2. **Violations of California's
Unfair Competition Law, Cal.
Bus. & Prof. Code §§ 17200, *et
seq.*; and**
3. **Violations of the California
Consumers Legal Remedies
Act, Cal. Civ. Code §§ 1750, *et
seq.***

28 Filed Concurrently:

1. Plaintiff's CLRA Venue
Affidavit

29 (JURY TRIAL DEMANDED)

30 Plaintiff Anna Fischer ("Plaintiff"), individually and on behalf of all others
31 similarly situated, complains and alleges as follows based on personal knowledge

1 as to herself, on the investigation of her counsel, and on information and belief as
 2 to all other matters. Plaintiff believes that substantial evidentiary support will exist
 3 for the allegations set forth in this Complaint, after a reasonable opportunity for
 4 discovery.

5 **NATURE OF ACTION**

6 1. This is a proposed class action seeking monetary damages, restitution,
 7 and injunctive and declaratory relief from Defendant 1300 Brookhaven, LLC,
 8 which does business under the brand name Corkcicle (“Corkcicle” or
 9 “Defendant”), arising from its use of surreptitiously tacking on junk fees, including
 10 a “Delivery Guarantee” fee, on all orders placed on its website without consumers’
 11 consent.

12 2. When consumers make a purchase through Corkcicle’s website, they
 13 browse products, select items from the online store, add them to their cart, and enter
 14 their billing and shipping information. Up until this point, this is all standard for an
 15 online purchasing experience. However, Corkcicle vastly diverts from the standard
 16 experience by secretly tacking on a so-called “Delivery Guarantee” fee, which is
 17 an additional charge that is automatically added to all orders.

18 3. Never do consumers affirmatively choose to add the “Delivery
 19 Guarantee” fee to their shopping cart. Instead, Corkcicle secretly adds this fee
 20 without consumers’ consent right before the purchase is complete.

21 4. Automatically sneaking in this fee is what the FTC has deemed as a
 22 “Digital Dark Pattern,” designed to trick or manipulate consumers into making
 23 choices that they might not otherwise have made.

24 5. As discussed below, sneaking in the “Delivery Guarantee” fee is
 25 deceptive and unfair for several reasons: (a) Corkcicle automatically adds this fee
 26 to consumers’ carts without their permission and does not disclose this added fee
 27 until the very last step in the multi-step purchasing process (or worse, only when it
 28 sends a confirmation email to the consumer); (b) the fee itself is deceptively named

1 and described, and does not provide any benefits to consumers that they are not
2 already entitled to as a matter of law; and (c) the fees are nothing more than an
3 additional cost for shipping, rendering Corkcicle's promise for "free shipping"
4 false.

5 6. Corkcicle hides, disguises, and fails to divulge that a "Delivery
6 Guarantee" fee will be automatically added to all orders to deceive consumers into
7 purchasing it, allowing it to unjustly benefit from pushing its delivery obligations
8 and costs onto consumers.

9 7. Automatically adding additional products or services to online
10 shopping carts without explicit consumer consent is a deceptive practice.

11 8. Corkcicle omits and conceals material facts about purchasing items on
12 its website, never once informing consumers in any disclosure, at any time, that the
13 so-called "Delivery Guarantee" fee will be automatically and surreptitiously added
14 to all orders.

15 9. Despite its own responsibilities to ensure the care and delivery of the
16 products it sells and ships to consumers until they are delivered, Corkcicle utilizes
17 deceptive tactics to foot the bill on its customers, tricking them into paying for
18 services already provided and forcing them to subsidize Corkcicle's delivery
19 liabilities and customer support costs, despite promising free shipping, all to the
20 benefit of Corkcicle's bottom line.

21 10. Thousands of Corkcicle customers like Plaintiff have been assessed a
22 hidden fee for which they did not bargain, and for which they derived no benefit.

23 11. Consumers like Plaintiff reasonably understand Corkcicle's
24 advertised price to disclose the total cost they will pay for their products, as well as
25 the costs of delivery, including any related costs associated with loss, damage or
26 theft of their purchase in transit.

27 12. By unfairly obscuring its addition of a "Delivery Guarantee" fee to
28 consumers shopping carts, Corkcicle deceives consumers and gains an unfair upper

hand on competitors that fairly disclose their true prices and fees.

13. Plaintiff seeks damages and, among other remedies, injunctive relief that fairly allows consumers to decide whether they will pay Corkcicle's surreptitiously added-on fee.

THE PARTIES

14. Plaintiff Anna Fischer is a citizen of the State of California and resident of Los Angeles County.

15. Plaintiff is informed and believes, and upon such information and belief alleges, that Defendant 1300 Brookhaven, LLC is a Delaware limited liability company with its principal place of business in Orlando, Florida.

16. Plaintiff does not know the true names or capacities of the persons or entities sued as DOES 1 to 10, inclusive, and therefore sues such Defendants by such fictitious names. Plaintiff is informed and believes, and upon such information and belief alleges, that each of the DOE Defendants is in some manner legally responsible for the damages suffered by Plaintiff and the Class members as alleged in this Complaint. Defendants shall together be referred to as "Defendants" or "Corkcicle."

JURISDICTION AND VENUE

17. This Court has subject matter jurisdiction over this action pursuant to the Class Action Fairness Act of 2005, 28 U.S.C. § 1332(d)(2), because the total matter in controversy exceeds \$5,000,000 and there are over 100 members of the proposed class. Further, at least one member of the proposed class is a citizen of a State within the United States and at least one defendant is the citizen or subject of a foreign state.

18. The Central District of California has specific personal jurisdiction over Corkcicle. Specific jurisdiction over a non-resident defendant exists where: (1) “[t]he non-resident defendant . . . purposefully direct[s] [it]s activities or consummate[s] some transaction with the forum or resident thereof; or perform[s]

1 some act by which [it] purposefully avails [it]self of the privilege of conducting
 2 activities in the forum, thereby invoking the benefits and protections of its laws;”
 3 (2) the claim is one that “arises out of or relates to” the defendant’s activities in the
 4 forum state; and (3) the exercise of jurisdiction comports with “fair play and
 5 substantial justice, i.e. it must be reasonable.” *Schwarzenegger v. Fred Martin*
 6 *Motor Co.*, 374 F.3d 797, 802 (9th Cir. 2004). The plaintiff need only establish the
 7 first two prongs, while it is the defendant’s burden to “present a compelling case”
 8 that the exercise of jurisdiction would not be reasonable. *Id.*

9 19. ***Purposeful Availment.*** Under the first prong of the three-part test,
 10 “purposeful availment” includes both purposeful availment and purposeful
 11 direction, which are two distinct concepts. *Id.* Where a case sounds in tort, as here,
 12 courts employ the purposeful direction test. Purposeful direction requires the
 13 defendant have “(1) committed an intentional act, (2) expressly aimed at the forum
 14 state, (3) causing harm that the defendant knows is likely to be suffered in the forum
 15 state.” *Morrill v. Scott Fin. Corp.*, 873 F.3d 1136, 1142 (9th Cir. 2017) (citing
 16 *Schwarzenegger*, 374 F.3d at 802). On information and belief, Corkcicle regularly
 17 sells and ships its products to customers in California, including Plaintiff, who
 18 purchased the Product from her residence in Los Angeles County, California. On
 19 further information and belief, Corkcicle sells its products in retail stores in
 20 California, including Bristol Farms. In addition, because Defendant does a
 21 substantial amount of business in California, it is knowingly employing a false
 22 marketing scheme directed at and harming California residents, including Plaintiff.

23 20. ***Claim Arising Out of Action in the Forum Prong.*** Under the second
 24 prong of the three-part specific jurisdiction test, personal jurisdiction exists where,
 25 as here, the claim “arises out of or relates to” the defendant’s activities in the forum
 26 state. Courts in the Ninth Circuit use a “but for” test to determine whether the claim
 27 “arises out of” the nonresident’s forum-related activities. In other words, the test is
 28 satisfied if the plaintiff would not have suffered loss “but for” defendant’s

1 activities. *Ballard v. Savage*, 65 F.3d 1495, 1500 (9th Cir. 1995). Here, Corkcicle’s
2 contact with the forum—knowingly employing a false marketing scheme directed
3 at California residents—is the basis of its violations of various false advertising
4 statutes. But for Corkcicle’s contact with the forum, Plaintiff (and the thousands of
5 other individuals who purchased Corkcicle’s deceptively advertised products)
6 would not have suffered harm.

7 21. ***Venue.*** Venue is proper in the U.S. District Court for the Central
8 District of California pursuant to 28 U.S.C. § 1391 because Corkcicle:

- 9 a) is authorized to conduct business in this District and has
- 10 intentionally availed itself of the laws and markets within this
- 11 District;
- 12 b) does substantial business within this District;
- 13 c) is subject to personal jurisdiction in this District because it has
- 14 availed itself of the laws and markets within this District; and
- 15 the injury to Plaintiff occurred within this District.

GENERAL ALLEGATIONS

A. Overview of Corkcicle

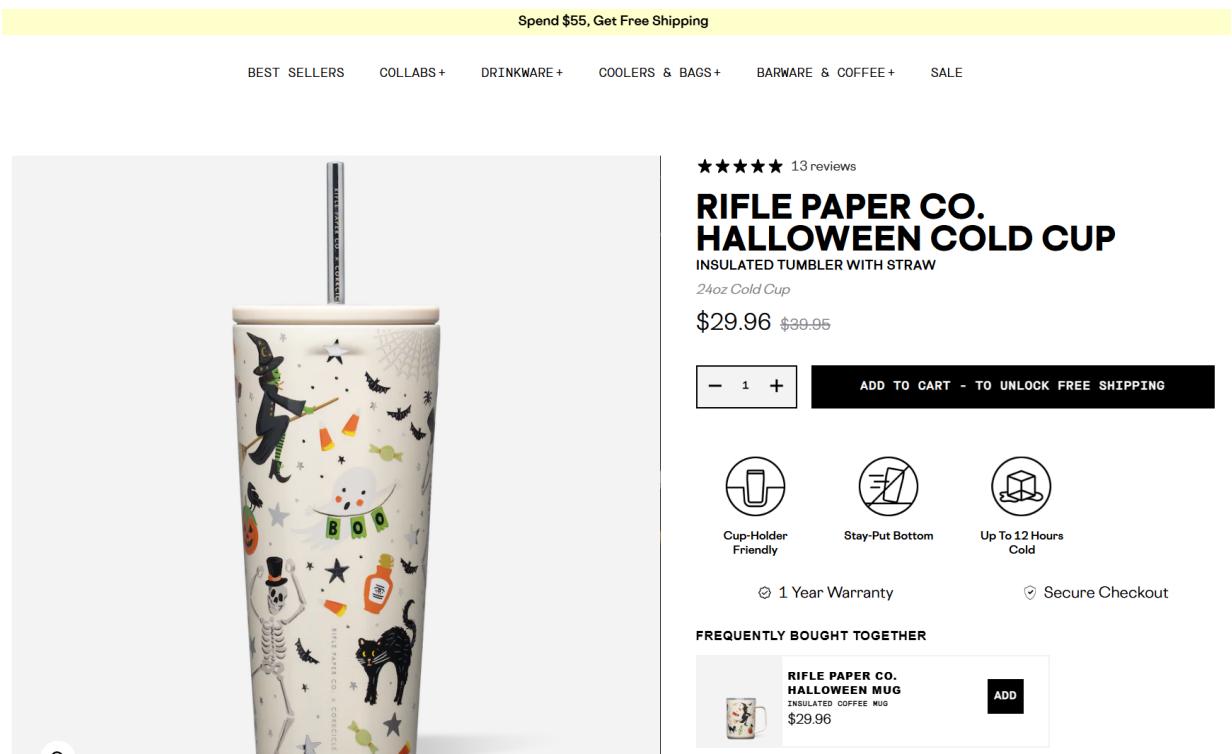
18 22. Corkcicle is a consumer drinkware brand. Corkcicle sells its products
19 primarily through its own online website, and, on information and belief in major
20 retail stores such as Bristol Farms. This case concerns the “Delivery Guarantee”
21 fee added to purchases made directly on Corkcicle’s website.

22 23. At no point in the purchasing process are consumers asked to assent
23 to Corkcicle's Terms of Use.

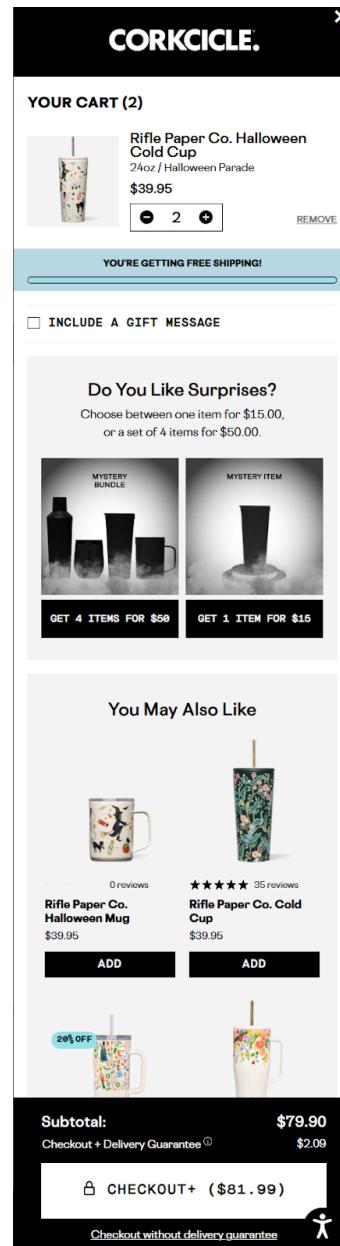
B. Corkcicle Surreptitiously Adds Fees to Consumers' Carts

25 24. This is how Corkcicle's deception works. When a consumer visits
26 corkcicle.com and selects a product to purchase, Corkcicle informs the consumer

1 that orders over \$55 are entitled to free shipping:



14 25. When a consumer clicks the large “ADD TO CART – TO UNLOCK
 15 FREE SHIPPING” button, the shopping cart is automatically displayed on the side
 16 of the webpage. The consumer’s cart is riddled with deception. Corkcicle sneaks
 17 in, in much smaller writing than the large red button screaming “CHECKOUT +,”
 18 a fee for “Checkout+.” On information and belief the added fee amounts to a
 19 percentage of the transaction. The fee is added without the consumer having done
 20 anything at all to add the fee. What’s worse, the optional hyperlink to “Continue
 21 Without Checkout+” is so tiny and in such light print as to blend in with the white
 22 background, and it is intentionally designed to go unnoticed by consumers like
 23 Plaintiff, who did not notice the fee. Thus, if consumers even notice the very small
 24 amount added to their transactions, consumers are still left entirely unaware that
 25 the Delivery Guarantee charge is optional, because it is presented in the cart as
 26 mandatory. Moreover, Corkcicle again misrepresents that the customer is
 27 “GETTING FREE SHIPPING!”:



26. If a consumer selects the large white “Checkout+” button, which the consumer is likely to do for the reasons explained above, the consumer is then taken to the checkout page where the “Delivery Guarantee” fee is presented in the cart:
 (image on next page)

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CORKCICLE.

Express checkout

shop **PayPal** **amazon pay**

OR

Contact [Sign in](#)

Email 

Enter an email

Email me with news and offers

Delivery

Country/Region
United States

First name 

Enter a first name

Last name 

Enter a last name

Address 

Enter an address

 1 Delivery Guarantee
GSP-209
[Remove](#)
[Edit](#)

 2 Rifle Paper Co. Halloween Cold Cup
24oz / Halloween Parade
[Edit](#)

Discount code or gift card 

 10% off discount available for Military, First Responders, Medical Workers and Teachers

Subtotal - 3 items \$81.99

Shipping  FREE

Estimated taxes  \$7.79

Total USD \$89.78

27. Thus, reasonable consumers believe that they have no choice but to pay the add-on fee, which they were never previously informed of. This is a classic bait & switch.

28. Many consumers do not notice that an additional fee is being added to their order. Others believe that they have no choice but to pay this fee.

29. This pre-selection of automatically sneaking junk fees into consumer orders is deceptive and unlawful. Imagine a scenario in which a consumer goes to the grocery store, and the cashier secretly scans an extra small item during checkout and places it in the customer's cart without the customer noticing. What happened to Plaintiff during the online checkout process is no different.

30. As the FTC notes, "For years, unscrupulous direct-mail and brick-and-mortar retailers have used design tricks and psychological tactics such as pre-checked boxes, hard-to-find- and read disclosures, and confusing cancellation policies, to get consumers to give up their money or data." *FTC Report Shows Rise in Sophisticated Dark Patterns Designed to Trick and Trap Consumers*, September

1 15, 2022 (available at <https://www.ftc.gov/news-events/news/press-releases/2022/09/ftc-report-shows-rise-sophisticated-dark-patterns-designed-trick-trap-consumers>). The FTC further notes in its *Enforcement Policy Statement Regarding Negative Option Marketing* that “[a] ‘pre-checked box’ does not constitute affirmative consent.”

6 [https://www.ftc.gov/system/files/documents/public_statements/1598063/negative](https://www.ftc.gov/system/files/documents/public_statements/1598063/negative_option_policy_statement-10-22-2021-tobureau.pdf)
7 _option_policy_statement-10-22-2021-tobureau.pdf at p. 13 (emphasis added).

8 31. This method of adding on fees is designed to go undetected by
9 consumers and thus provide additional revenue to Corkcicle. The Wall Street
10 Journal recently highlighted the problem, stating:

11 Some brands automatically add optional coverage to orders. ***Customers have***
12 ***complained the fees are disclosed in small fonts, made to appear***
13 ***mandatory when they are not or are displayed late in the online checkout***
process.

14 Imani Moise, *Porch Pirates Are Now Raising the Price You Pay at Checkout*, Wall
15 Street Journal, December 25, 2024, available at <https://www.wsj.com/personal-finance/package-theft-hidden-fee-higher-prices-325c4a34> (emphasis added).

17 32. Upon information and belief, Corkcicle is aware that by designing its
18 website to automatically opt in consumers to “delivery guarantee” fees, most
19 consumers will unknowingly purchase the “protection.” On information and belief,
20 Corkcicle is also aware that had it designed its website to offer *optional*
21 “protection,” by requiring that consumers affirmatively add the protection to their
22 orders, the vast majority of consumers would not purchase it.

23 33. Because Corkcicle’s practice is deceptive, Shopify, which handles the
24 technology infrastructure for many direct-to-consumer brands and other
25 ecommerce businesses, told merchants that automatically adding discretionary
26 charges at checkout will be banned starting in February of 2025.

27 34. The ban is too little, too late to help the thousands of consumers like
28 Plaintiff who have been deceived.

1 **C. The Add-On Fees Render Promises of Free Shipping False.**

2 35. In addition to the deceptive way that Corkcicle sneaks fees into
 3 consumers' carts, the fees are also deceptive because they directly contradict other
 4 promises on Corkcicle's website regarding "free" shipping. This is because
 5 Corkcicle's add-on fees are really just disguised shipping charges.

6 36. As described herein, Corkcicle promised "free" shipping on certain
 7 orders. This was a clear promise that the total, marginal cost of having products
 8 shipping to the consumer was represented by the "free" shipping promises.
 9 Corkcicle tacks on the added "Delivery Guarantee" fee despite its free shipping
 10 promise.

11 37. Corkcicle realized it could charge customers more for shipping
 12 without them realizing, thereby increasing profitability, by misrepresenting the true
 13 shipping costs to consumers.

14 38. Corkcicle was or should have been aware that consumers were and
 15 would be deceived by a shipping fee surreptitiously added to the order while
 16 simultaneously promising "free" shipping.

17 39. By deceptively obscuring charges, Corkcicle deceives consumers and
 18 gains an unfair upper hand on competitors.

19 **D. Defendant's "Delivery Guarantee" Fee Is Deceptive Because it**
 20 **Provides No Added Value to Consumers.**

21 40. Beyond the deceptive manner in which the fees are added and the fact
 22 that fees render Corkcicle's "free" shipping promise false, the "Delivery
 23 Guarantee" fee is also deceptively named and described.

24 41. Popular shipping services like UPS, Federal Express, and USPS
 25 Priority Mail *automatically* include shipping protection for the first \$100 worth of
 26 value in a package when goods are not delivered, are stolen, or are damaged.
 27 Defendant misrepresents and omits material facts about that truth. Thus, for the
 28 vast majority of consumers, those who are paying to ship a product less than \$100,

1 the add-on fee is entirely worthless because they are already provided the same
 2 protection by the shippers.

3 42. Additionally, in the event goods are not delivered, are stolen, or are
 4 damaged, consumers can report the issue to their credit card company or bank, who
 5 will often reverse the charge.

6 43. For all these reasons, the “Delivery Guarantee” fee is deceptively
 7 named and described. No reasonable consumer would knowingly elect to pay for
 8 the add-on fee, because it provides no additional value to consumers.

9 **E. Defendant’s Fees are Junk Fees That Violate Federal Guidance**
 10 **and California Law.**

11 44. Corkcicle’s shipping fees, such as the “Delivery Guarantee” fee, are
 12 precisely the type of “junk fees” that have triggered government scrutiny in recent
 13 years:

14 Junk fees are fees that are mandatory but not transparently
 15 disclosed to consumers. Consumers are lured in with the
 16 promise of a low price, but when they get to the register,
 17 they discover that price was never really available. Junk
 18 fees harm consumers and actively undermine competition
 19 by making it impractical for consumers to compare prices,
 20 a linchpin of our economic system.

21 The White House, The Price Isn’t Right: How Junk Fees Cost Consumers and
 22 Undermine Competition March 5, 2024, available at
 23 <https://www.whitehouse.gov/cea/written-materials/2024/03/05/the-price-isnt-right-how-junk-fees-cost-consumers-and-undermine-competition>.

24 45. As the Federal Trade Commission said recently in its effort to combat
 25 junk fees:

26 [M]any consumers said that sellers often do not advertise the
 27 total amount they will have to pay, and disclose fees only
 28 after they are well into completing the transaction. They
 also said that sellers often misrepresent or do not
 adequately disclose the nature or purpose of certain fees,
 leaving consumers wondering what they are paying for or if
 they are getting anything at all for the fee charged.

1 Federal Trade Commission, FTC Proposes Rule to Ban Junk Fees – Proposed
 2 Rule Would Prohibit Hidden and Falsely Advertised Fees, October 11, 2024,
 3 available at [https://www.ftc.gov/news-events/news/press-releases/2023/10/ftc-
 4 proposes-rule-ban-junk-fees](https://www.ftc.gov/news-events/news/press-releases/2023/10/ftc-proposes-rule-ban-junk-fees).

5 46. In July of 2024, California expanded its Consumer Legal Remedies
 6 Act (“CLRA”) to expressly make illegal “drip pricing,” which involves advertising
 7 a price that is less than the actual price that a consumer will have to pay for a good
 8 or service. California Civil Code Section 1770(a)(29). Under the new California
 9 law, it is illegal to advertise a low price for a product, only for that product to be
 10 subject to additional or mandatory fees later. In other words, “the price listed or
 11 advertised to the consumer must be the full price that the consumer is required to
 12 pay.” See California Department of Justice, Office of the Attorney General, SB 478
 13 Frequently Asked Questions, available at
 14 <https://oag.ca.gov/system/files/attachments/pressdocs/SB%20478%20FAQ%20%28B%29.pdf> (last accessed July 18, 2024). As the California Department of Justice
 15 stated:
 16

17 Businesses are free to explain how they set their prices or to
 18 subsequently itemize the charges that make up the total price that they
 19 charge customers. However, the price they advertise or display must be
 20 the total price that customers will have to pay for the good or service.
 21 Knowing the price of a good or service is essential to
 22 competition, and displaying a price that is less than what the customer
 23 will actually be charged is deceptive.

24 *Id.* at p.4 (emphasis added).

25 47. In its 2013 publication “.com Disclosures: How to Make Effective
 26 Disclosures in Digital Advertising,” the FTC makes clear that when advertising and
 27 selling are combined on a website, and the consumer will be completing the
 28 transaction online, the disclosures should be provided before the consumer makes
 29 the decision to buy – for example, before the consumer “add[s] to shopping cart.”
 See Fed. Trade Comm’n, .com Disclosures: How to Make Effective Disclosures
 in Digital Advertising at ii, 14 (Mar. 2013), available

1 at <https://www.ftc.gov/sites/default/files/attachments/press-releases/ftc-staff->
 2 <revises-online-advertising-disclosure-guidelines/130312dotcomdisclosures.pdf>.

3 48. Defendant violates federal guidance and California law by adding the
 4 shipping fees as line items well after the consumer “add[s] to shopping cart” and
 5 by failing to disclose the nature of these fees.

6 **F. Plaintiff’s Experience**

7 49. Plaintiff used the Corkcicle website to place an order for a Sun-Soaked
 8 Pink 24oz Cold Cup and a 40oz Cheetos x Corkcicle Cruiser on September 21,
 9 2025.

10 50. When using the website, Plaintiff was repeatedly informed that she
 11 would get free shipping as part of her purchase. Plaintiff justifiably relied on this
 12 promise when choosing to make a purchase over \$55.

13 51. However, unbeknownst to Plaintiff, Plaintiff’s purchase included a
 14 surreptitious “Delivery Guarantee” fee amounting to \$2.09 that—for the reasons
 15 described above—in fact represented an additional fee tacked on to Plaintiff’s order
 16 for a product that provided no additional benefit to Plaintiff.

17 52. On information and belief, Plaintiff viewed a screen flow similar to
 18 the screen flow depicted above, or a screen flow containing even more deceptions
 19 concerning the Delivery Guarantee fee. The precise screen flow viewed by Plaintiff
 20 is in Defendant’s custody and control and can be obtained in discovery.

21 53. Plaintiff did not know the charge existed or could be removed prior to
 22 completing her purchase.

23 54. Plaintiff would not have made these purchases if she had known that
 24 Corkcicle would tack on additional fees or if she had known that she would be
 25 made to pay extra for services already owed to her by virtue of the transaction.

26 55. If she had known the true cost of her orders and that Corkcicle was
 27 trying to extract additional payment from her hoping that she wouldn’t notice, she
 28 would have chosen another method or merchant for ordering her foods.

56. As a result of Defendant's deceptive addition of worthless fees, Plaintiff overpaid for her Corkcicle purchase.

CLASS ACTION ALLEGATIONS

57. Plaintiff brings this action on behalf of herself and all persons similarly situated pursuant to Rule 23(a), (b)(2), and (b)(3) of the Federal Rules of Civil Procedure and seeks certification of the following class:

All consumers in the United States who, within the applicable statute of limitations preceding the filing of this action to the date of class certification, ordered products from Corkcicle and were assessed a so-called Delivery Guarantee fee or similar fee (the “Class”).

58. The above-described class of persons shall hereafter be referred to as the “Class.” Excluded from the Class are any and all past or present officers, directors, or employees of Defendants, any judge who presides over this action, and any partner or employee of Class Counsel. Plaintiff reserves the right to expand, limit, modify, or amend this class definition, including the addition of one or more subclasses, in connection with her motion for class certification, or at any other time, based upon, *inter alia*, changing circumstances and/or new facts obtained during discovery.

59. In the alternative, Plaintiff seeks certification of the following class pursuant to Rule 23(a), (b)(2), and (b)(3) of the Federal Rules of Civil Procedure:

All consumers in California who, within the applicable statute of limitations preceding the filing of this action to the date of class certification, ordered products from Corkcicle and were assessed a so-called Delivery Guarantee fee or similar fee (the “Class”).

60. **Numerosity.** The Class is so numerous that joinder of all members in one action is impracticable. The exact number and identities of the members of the Class is unknown to Plaintiff at this time and can only be ascertained through appropriate discovery, but on information and belief, Plaintiff alleges that there are

1 thousands of members of the Class. The precise number of Class members is
 2 unknown to Plaintiff.

3 61. **Typicality.** Plaintiff's claims are typical of those of other members of
 4 the Class, all of whom have suffered similar harm due to Defendants' course of
 5 conduct as described in this Complaint. All Class members have been deceived (or
 6 were likely to be deceived) by Corkcicle's false and deceptive junk fee scheme, as
 7 alleged in this Complaint. Plaintiff is advancing the same claims and legal theories
 8 on behalf of herself and all Class members.

9 62. **Adequacy of Representation.** Plaintiff is an adequate representative
 10 of the Class and will fairly and adequately protect the interests of the Class. Plaintiff
 11 has retained attorneys who are experienced in the handling of complex litigation
 12 and class actions, and Plaintiff and her counsel intend to prosecute this action
 13 vigorously. Plaintiff has no antagonistic or adverse interests to those of the Class.

14 63. **Existence and Predominance of Common Questions of Law or**
 15 **Fact.** Common questions of law and fact exist as to all members of the Class that
 16 predominate over any questions affecting only individual members of the Class.
 17 These common legal and factual questions, which do not vary among members of
 18 the Class, and which may be determined without reference to the individual
 19 circumstances of any member of the Class, include, but are not limited to, the
 20 following:

- 21 a) Whether during the class period, Corkcicle deceptively represented
 22 its fees for online orders;
- 23 b) Whether Defendant's alleged misconduct misled or had the
 24 tendency to mislead consumers;
- 25 c) Whether Defendant engaged in unfair, unlawful, and/or fraudulent
 26 business practices under the laws asserted;
- 27 d) Whether Defendant misrepresented the nature and/or purpose of
 28 the "Delivery Guarantee" fee;

- 1 e) Whether Defendant was unjustly enriched by having consumers pay
- 2 a “Delivery Guarantee” fee;
- 3 f) Whether Defendant acted in bad faith when it charged a “Delivery
- 4 Guarantee” fee;
- 5 g) Whether Defendant violated California’s Unfair Competition Law;
- 6 h) Whether Defendant violated California’s False Advertising Law;
- 7 i) Whether Defendant violated California’s Consumer Legal
- 8 Remedies Act;
- 9 j) Whether Plaintiff and members of the Class were harmed by
- 10 Defendant’s misrepresentations;
- 11 k) Whether Plaintiff and the Class have been damaged, and if so, the
- 12 proper measure of damages; and
- 13 l) Whether an injunction is necessary to prevent Defendant from
- 14 continuing to deceptively represent the amount for orders on
- 15 vincecamuto.com.

16 64. **Superiority**. A class action is superior to other available methods for
17 the fair and efficient adjudication of this controversy because individual litigation
18 of the claims of all members of the Class is impracticable. Requiring each
19 individual class member to file an individual lawsuit would unreasonably consume
20 the amounts that may be recovered. Even if every member of the Class could afford
21 individual litigation, the adjudication of at least thousands of identical claims
22 would be unduly burdensome to the courts. Individualized litigation would also
23 present the potential for varying, inconsistent, or contradictory judgments and
24 would magnify the delay and expense to all parties and to the court system resulting
25 from multiple trials of the same factual issues.

26 65. By contrast, the conduct of this action as a class action, with respect
27 to some or all of the issues presented, presents no management difficulties,
28 conserves the resources of the parties and of the court system, and protects the

1 rights of the members of the Class. Plaintiff anticipates no difficulty in the
2 management of this action as a class action. The prosecution of separate actions by
3 individual members of the Class may create a risk of adjudications with respect to
4 them that would, as a practical matter, be dispositive of the interests of the other
5 members of the Class who are not parties to such adjudications, or that would
6 substantially impair or impede the ability of such non-party Class members to
7 protect their interests.

8 66. **Ascertainability.** Upon information and belief, Defendants keep
9 extensive computerized records of their sales and customers through, among other
10 things, databases storing customer orders, customer order histories, customer
11 profiles, customer loyalty programs, and general marketing programs. Defendants
12 have one or more databases through which a significant majority of members of
13 the Class may be identified and ascertained, and they maintain contact information,
14 including email addresses and home addresses (such as billing, mailing, and
15 shipping addresses), through which notice of this action is capable of being
16 disseminated in accordance with due process requirements.

17 67. The California Class also satisfies each of the class action
18 requirements set forth above. The allegations set forth above with regards to the
19 Class, therefore, apply equally to the California Class.

20 68. The Proposed Class Satisfies the Prerequisites for Damages. The
21 common questions of law and fact enumerated above predominate over questions
22 affecting only individual members of the Classes, and a class action is the superior
23 method for fair and efficient adjudication of the controversy. The likelihood that
24 individual members of the Classes will prosecute separate actions is remote due to
25 the extensive time and considerable expense necessary to conduct such litigation,
26 especially when compared to the relatively modest amount of monetary, injunctive,
27 and equitable relief at issue for each individual Class member

CLAIMS FOR RELIEF

First Cause of Action

Unjust Enrichment

(By Plaintiff Against Defendants on Behalf of Herself and the Class)

69. To the detriment of Plaintiff and the Classes, Defendant has been, and continues to be, unjustly enriched as a result of its wrongful conduct alleged herein.

70. Plaintiff and the Classes conferred a benefit on Defendant when they paid the “Delivery Guarantee” fee, which they did not bargain for and could not reasonably avoid.

71. As a result, Defendant was benefited in that it was able to relieve itself of its obligations and liabilities related to the risk of loss in delivering its goods to Plaintiff and the Classes, and the costs that would otherwise be associated with fulfilling these delivery obligations, including customer support costs.

72. Plaintiff and the Class members received no benefit for which they were not already entitled as a result of Defendant's conduct.

73. Defendant unfairly, deceptively, unjustly, and/or unlawfully accepted said benefits, which under the circumstances, would be unjust to allow Defendant to retain.

74. Defendant's unjust enrichment is traceable to, and resulted directly and proximately from, the conduct alleged herein.

75. Plaintiff and the Classes, therefore, seek disgorgement of all wrongfully obtained profits received and/or retained by Defendant as a result of its inequitable conduct as more fully stated herein.

Second Cause of Action

Violations of California's Unfair Competition Law, Cal. Bus. & Prof. Code §§ 17200, *et seq.*

(By Plaintiff Against Defendants on Behalf of Herself and the Class)

76. Plaintiff repeats and re-alleges the allegations contained in every preceding paragraph as if fully set forth herein.

1 77. Plaintiff brings this claim on behalf of herself and the California
2 Subclass.

3 78. Defendant's conduct described herein violates the Unfair Competition
4 Law ("UCL"), codified at California Business and Professions Code section 17200,
5 et seq.

6 79. The UCL prohibits, and provides civil remedies for, unfair
7 competition. Its purpose is to protect both consumers and competitors by promoting
8 fair competition in commercial markets for goods and services. In service of that
9 purpose, the Legislature framed the UCL's substantive provisions in broad,
10 sweeping language.

11 80. The UCL imposes strict liability. Plaintiff need not prove that
12 Defendant intentionally or negligently engaged in unlawful, unfair, or fraudulent
13 business practices—but only that such practices occurred.

14 81. A business act or practice is "unfair" under the UCL if it offends an
15 established public policy or is immoral, unethical, oppressive, unscrupulous, or
16 substantially injurious to consumers, and that unfairness is determined by weighing
17 the reasons, justifications, and motives of the practice against the gravity of the
18 harm to the alleged victims.

19 82. A business act or practice is "fraudulent" under the UCL if it is likely
20 to deceive members of the public.

21 83. A business act or practice is "unlawful" under the UCL if it violates
22 any other law or regulation.

23 84. Defendant committed unfair and fraudulent business acts and
24 practices in violation of Cal. Bus. & Prof. Code § 17200, et seq., by affirmatively
25 and knowingly misrepresenting that the presence and nature of its "Delivery
26 Guarantee" fee.

27 85. Defendant's acts and practices offend an established public policy of
28 truthful advertising and fee disclosure in the marketplace, and constitute immoral

1 unethical, oppressive, and unscrupulous activities that are substantially injurious to
 2 consumers.

3 86. The harm to Plaintiff and the Class outweighs the utility of
 4 Defendant's practices. There were reasonably available alternatives to further
 5 Defendant's legitimate business interests, other than the misleading and deceptive
 6 conduct described herein.

7 87. Defendant's conduct also constitutes an "unlawful" act under the UCL
 8 because it also constitutes a violation of sections 1770(a)(5) and (a)(9) of the
 9 California Consumer Legal Remedies Act ("CLRA"), Cal. Civ. Code section 1750,
 10 et seq.

11 88. Defendant's business practices have misled Plaintiff and the proposed
 12 Class and, unless enjoined, will continue to mislead them in the future.

13 89. Plaintiff relied on Defendant's misrepresentations in making her
 14 purchase.

15 90. By falsely marketing its products and delivery services, Defendant
 16 deceived Plaintiff and Class members into making purchases they otherwise would
 17 not make and paying more than they should have.

18 91. As a direct and proximate result of Defendant's unfair, fraudulent, and
 19 unlawful practices, Plaintiff and Class members suffered and will continue to suffer
 20 actual damages. Defendant's fraudulent conduct is ongoing and presents a
 21 continuing threat to Plaintiff and Class members that they will be deceived.
 22 Plaintiff desires to conduct further business with Defendant but cannot rely on
 23 Defendant's representations unless an injunction is issued.

24 92. As a result of its unfair, fraudulent, and unlawful conduct, Defendant
 25 has been unjustly enriched and should be required to disgorge its unjust profits and
 26 make restitution to Plaintiff and Class members pursuant to Cal. Bus. & Prof. Code
 27 § 17203 and 17204.

28 93. Pursuant to Business & Professions Code §§ 17203 and 17500,

1 Plaintiff and the members of the Class, on behalf of the general public, seek an
 2 order of this Court enjoining Defendant from continuing to engage, use, or employ
 3 their unfair, unlawful, and fraudulent practices.

4 94. Plaintiff has no adequate remedy at law in part because Defendant
 5 continues to add its Route Protection Package fees to purchases. Plaintiff therefore
 6 seeks an injunction on behalf of the general public to prevent Defendant from
 7 continuing to engage in the deceptive and misleading practices described herein.

8 **Third Cause of Action**

9 **Violation of the California Consumers Legal Remedies Act,**
 10 **Cal. Civ. Code §§ 1750, *et seq.***

11 **(By Plaintiff Against Defendants on Behalf of Herself and the Class)**

12 95. Plaintiff repeats and re-alleges the allegations contained in every
 13 preceding paragraph as if fully set forth herein.

14 96. The Consumer Legal Remedies Act of 1970, Cal. Civ. Code §§ 1750,
 15 *et seq.* (the “CLRA”) is a California consumer protection statute which allows
 16 plaintiffs to bring private civil actions for “unfair methods of competition and
 17 unfair or deceptive acts or practices undertaken by any person in a transaction . . .
 18 which results in the sale or lease of goods or services to any consumer.” Cal. Civ.
 19 Code § 1770(a). The purposes of the CLRA are “to protect consumers against
 20 unfair and deceptive business practices and to provide efficient and economical
 21 procedures to secure such protection.” Cal. Civ. Code § 1760.

22 97. Plaintiff and each member of the Class are “consumers” as defined by
 23 California Civil Code section 1761(d). Defendants’ sales of chips to Plaintiff and
 24 the Class were “transactions” within the meaning of California Civil Code section
 25 1761(e). The products purchased by Plaintiff and the Class are “goods” within the
 26 meaning of California Civil Code section 1761(a).

27 98. Defendants violated and continue to violate the CLRA by engaging in
 28 the following practices prohibited by California Civil Code section 1770(a) in

1 transactions with Plaintiff and the Class which were intended to result in, and did
 2 result in, the sale of Corkcicle's products:

- 3 (1) Representing that goods or services have sponsorship, approval,
 4 characteristics, ingredients, uses, benefits, or quantities that
 5 they do not have or that a person has a sponsorship, approval,
 6 status, affiliation, or connection that the person does not have;
- 7 (2) "Using deceptive representations . . . in connection with . . .
 8 services";
- 9 (3) Advertising goods or services with the intent not to sell them as
 10 advertised.
- 11 (4) "Advertising, displaying, or offering a price for a good or
 12 service that does not include all mandatory fees or charges.

13 Cal. Civ. Code §§ 1770(a)(4),(5),(9), & (29).

14 99. Specifically, Corkcicle (a) deceptively added fees into consumers'
 15 carts; (b) deceptively named and described the add-on fees; (c) charged Plaintiff
 16 and class members for shipping above and beyond what was promised to them; and
 17 (d) charged fees that provide no added value to reasonable consumers.

18 100. Defendant's conduct and actions are deceptive, untrue, and misleading
 19 to reasonable consumers and will continue to mislead consumers in the future.

20 101. Plaintiff relied on Defendant's representations in making her
 21 purchase.

22 102. As a result of Defendant's deceptive practices, Plaintiff overpaid for
 23 her purchase.

24 103. As a direct and proximate result of Defendant's misconduct, Plaintiff
 25 and the Class members have suffered and will continue to suffer damages.

26 104. As to this cause of action, at this time, Plaintiff seeks only injunctive
 27 relief. Pursuant to Cal. Civ. Code § 1782, in conjunction with the filing of this
 28 action, Plaintiff's counsel is notifying Defendants by separate letter of the particular

1 violations of the CLRA and demanding that they correct or agree to correct the
 2 actions described in this Complaint. If Defendants fail to do so, Plaintiff shall
 3 amend her Complaint as of right (or otherwise seek leave to amend the Complaint)
 4 to include compensatory and monetary damages to which Plaintiff and the Class is
 5 entitled under the CLRA.

6 **PRAYER FOR RELIEF**

7 WHEREFORE, Plaintiff Anna Fischer prays for relief and judgment in favor
 8 of herself and the Classes as follows:

9 **On the First Cause of Action for Violations of the Unfair Competition Law**

10 **(Cal. Bus. & Prof. Code §§ 17200, et seq.)**

11 A. For an order certifying that the action be maintained as a class action,
 12 that Plaintiff be designated the class representative, and that undersigned counsel
 13 be designated as class counsel.

14 B. For an award of equitable and declaratory relief.

15 C. For pre- and post-judgment interest and costs of suit incurred herein.

16 D. For attorneys' fees incurred herein pursuant to California Code of
 17 Civil Procedure section 1021.5, or to the extent otherwise permitted by law.

18 E. For such other and further relief as the Court may deem just and
 19 proper.

20 **On the Second Cause of Action for Violations of the Consumers Legal**

21 **Remedies Act (Cal. Civ. Code §§ 1750, et seq.)**

22 A. For an order certifying that the action be maintained as a class action,
 23 that Plaintiff be designated the class representative, and that undersigned counsel
 24 be designated as class counsel.

25 B. For an injunction putting a stop to the deceptive and misleading
 26 conduct described herein and ordering Defendants to correct their deceptive and
 27 misleading advertising and selling practices.

28 C. For pre- and post-judgment interest and costs of suit incurred herein.

D. For attorneys' fees incurred herein pursuant to California Civil Code section 1780, or to the extent otherwise permitted by law.

E. For such other and further relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Plaintiff, on behalf of herself and the Class, hereby demands a trial by jury pursuant to Federal Rule of Civil Procedure 38(b) on all claims so triable.

DATED: November 3, 2025

Respectfully submitted,

KJC LAW GROUP, A.P.C.

By: s/ Kevin J. Cole

Attorney for Plaintiff
Anna Fischer