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FILED
Superior Court of California
County of Los Angeles
08/26/2025
David W. Slayton, Executive Officer / Clerk of Court
By: N. Osollo Deputy

7 Attorneys for Plaintiff and the Putative Class

8 **SUPERIOR COURT FOR THE STATE OF CALIFORNIA**
9 **COUNTY OF LOS ANGELES**

11 ARIANNA GONZALES, individually and on
behalf of all others similarly situated,

12 Plaintiff,

13 v.

14 SKINNYCORP, LLC, a Delaware entity, d/b/a
15 WWW.THREADLESS.COM,

16 Defendant.

Case No. 25STCV18353
Assigned Judge: Armen Tamzarian
Dept.: 52

**FIRST AMENDED CLASS ACTION
COMPLAINT FOR: (1) VIOLATION OF
CAL. BUS. & PROF. CODE § 17500 ET SEQ.;
AND (2) CONSUMERS LEGAL REMEDIES
ACT, CAL. CIVIL CODE § 1750 ET SEQ.**

Dept.: 52

Action Filed: June 24, 2025
Trial Date: TBA

Electronically Received 08/26/2025 12:51 PM

1 **I. NATURE OF ACTION**

2 1. Defendant advertises fictitious regular prices (and corresponding phantom discounts) on
3 products sold through its website at <https://www.threadless.com/> (the “Website”). This practice allows
4 Defendant to fabricate a fake “reference price,” and present the actual price as “discounted,” when it is
5 not. The result is a sham price disparity that is *per se* illegal under California law.

6 **II. PARTIES**

7 2. Plaintiff is a citizen of California who purchased a product identified below from
8 Defendant’s Website.

9 3. Defendant is an Illinois limited liability company. Plaintiff is informed and believes and
10 thereon alleges that Defendant’s principal place of business is the state of Illinois based on the Terms of
11 Service on the Website identifying the Website’s mailing address 1 Westbrook Corporate Center,
12 Westchester, IL 60154. Defendant is an online retailer that sells clothing, shoes, accessories, and related
13 products nationwide and in California. Defendant has substantial contacts with and receives substantial
14 benefits and income from and through the state of California.

15 **III. JURISDICTION AND VENUE**

16 4. As a court of general jurisdiction, this Court has jurisdiction over all claims presented to
17 it.

18 5. Defendant is subject to jurisdiction under California’s “long-arm” statute because the
19 exercise of jurisdiction over Defendant is not “inconsistent with the Constitution of this state or the
20 United States.” Defendant engaged in intentional acts by operating its Website and making it available
21 to California residents, deceptively advertising its products via its Website to California residents
22 including Plaintiff, expressly aiming its conduct toward California residents by conducting substantial
23 business with residents of the State of California via its Website, and causing economic harm to
24 California residents that Defendant knew would be likely to be suffered in California. Plaintiff is
25 informed and believes and thereon alleges that Defendant generates a minimum of eight percent of its
26 revenues from its Website based upon interactions with Californians, such that the Website “is the
27 equivalent of a physical store in California.” *Thurston v. Fairfield Collectibles of Georgia*, 53 Cal. App.
28 5th 1231, 1235 (2020), *review denied*, No. S264780 (Dec. 9, 2020).

1 6. Venue is proper in this County pursuant to California Code of Civil Procedure section
2 395(a).

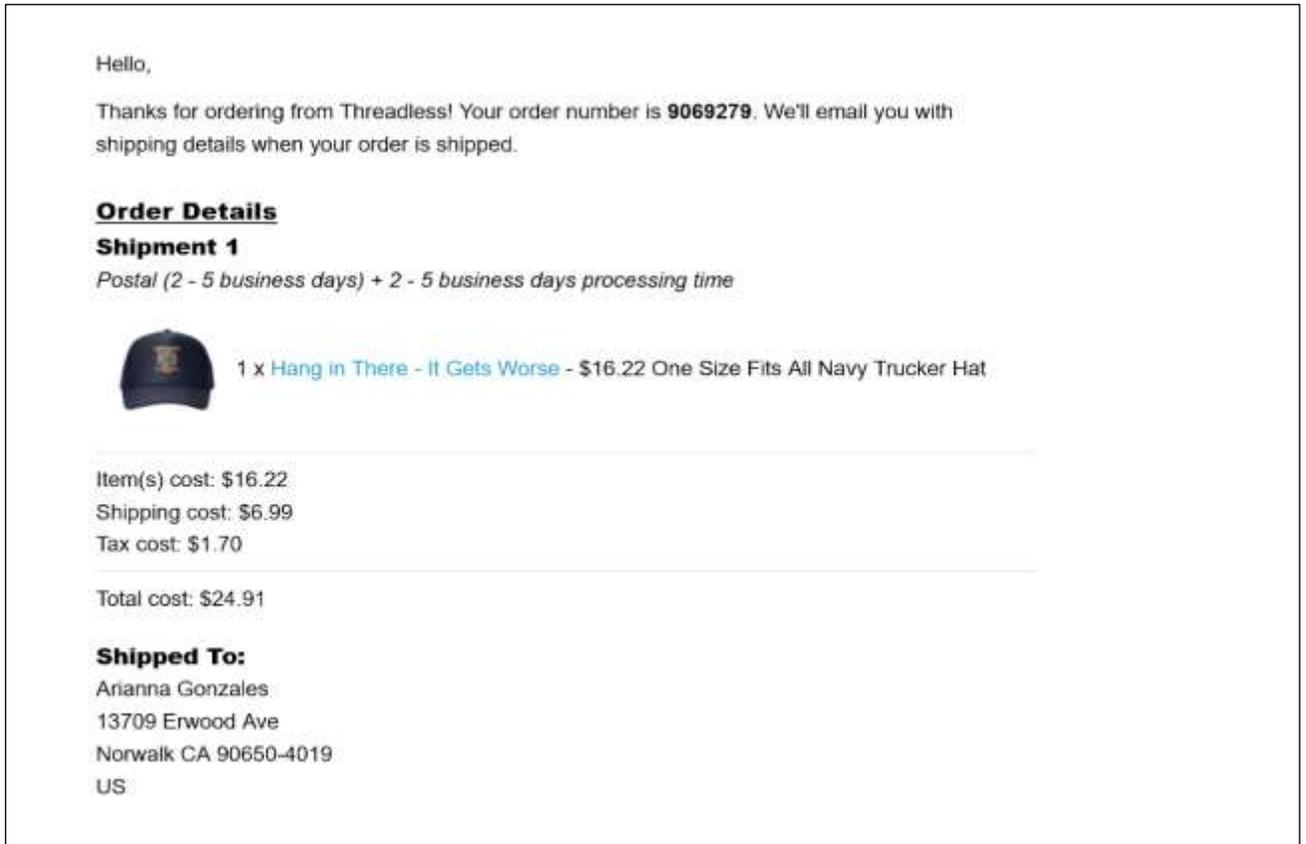
3 **IV. FACTUAL ALLEGATIONS**

4 7. Defendant, through its Website, offers products for sale to California consumers.

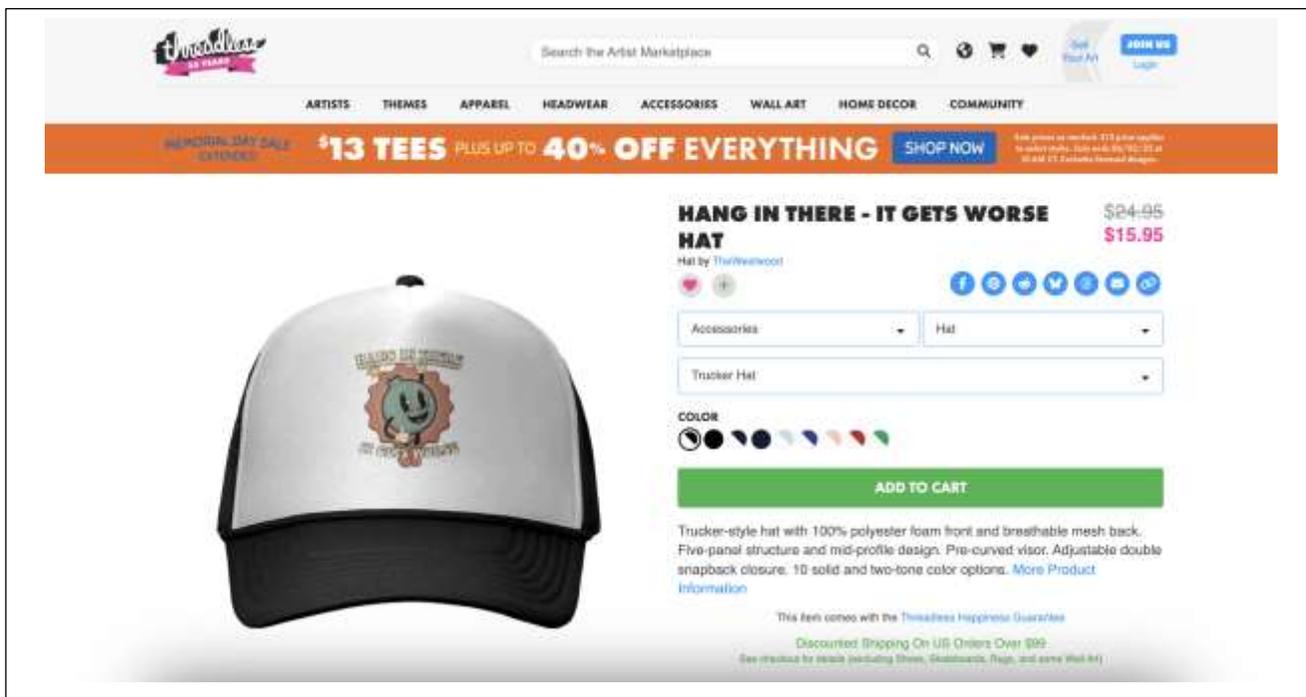
5 8. Defendant advertises fictitious prices (and corresponding phantom discounts) on such
6 products. This practice allows Defendant to fabricate a fake “reference” price, and present the actual
7 price as “discounted,” when it is not.

8 9. On April 23, 2025, Plaintiff purchased a product called “Hang in There – It Gets Worse
9 Hat” in the “navy” color (the “Product”) from Defendant’s Website for the allegedly discounted price
10 of \$16.22, which Defendant compared to a strike-through reference price of \$24.96, after visiting a
11 webpage advertising the Product.

12 10. A portion of an email that Plaintiff received after completing her online transaction for
13 her purchase of the Product via the Website providing her with email confirmation of her transaction is
14 depicted in relevant part as follows:



1 11. An exemplar of the webpage advertising the Product on June 2, 2025, which is
 2 subsequent to the day on which Plaintiff made her purchase, is depicted in the webpage shown below:



14 12. Plaintiff read and relied upon the strike-through reference pricing advertising the Product
 15 that she purchased before completing her online purchase of the Product via the Website.

16 13. Courts have construed strikethrough prices as representing former prices despite the lack
 17 of specific words indicating the regular price. *See, e.g., Jacobs v. La-Z-Boy, Inc.*, 2024 WL 5194976,
 18 at *5 (C.D. Cal. Nov. 14, 2024) (Staton, J.); *Vizcarra v. Michaels Stores, Inc.*, 710 F. Supp. 3d 718, 725
 19 (N.D. Cal. 2024); *Phillips v. Brooklyn Bedding LLC*, 2024 WL 2830663, at *4 (N.D. Cal. 2024) (Lin,
 20 J.); *Munning v. Gap, Inc.*, 2016 WL 6393550, at *5 (N.D. Cal. Oct. 28, 2016); *see also Calcagno v.*
 21 *Kipling Apparel Corp.*, 2024 WL 3261205, at *7 (S.D. Cal. July 1, 2024) (Bashant, J.) (“a former price
 22 need not be identified by the words ‘formerly’ or ‘regularly’ to be actionable”).

23 14. The alleged former price or reference price described in the preceding paragraph was not
 24 the “prevailing market price” in the three month period (*i.e.*, mid-February through mid-April 2025)
 25 preceding the above access date within the meaning of section 17501 of the California Business and
 26 Professions Code. Likewise, the advertisement does not “clearly, exactly and conspicuously” state the
 27 date upon which the alleged former price or reference price was the prevailing market price within the
 28 meaning of that same statute.

1 15. Indeed, within such three month period immediately preceding Plaintiff’s purchase of the
2 Product, Defendant was offering the exact same Product for the allegedly discounted price of \$20.00
3 purportedly reflecting a similar phantom discount from a strike-through reference price of \$24.95 on
4 March 31, 2025, as shown in the archived image documented by the “Wayback Machine.”¹

5 16. Even before such three month period, Defendant consistently offered the Product at a
6 discounted price well below its strike-through reference price of \$24.95. For example, on November
7 29, 2024, Defendant offered the exact same Product for the allegedly discounted price of \$19.95
8 purportedly reflecting a discount from a strike-through reference price of \$24.95 as documented by the
9 “Wayback Machine.”²

10 17. On December 14, 2024, Defendant offered the exact same Product for the allegedly
11 discounted price of \$19.95 purportedly reflecting a discount from a strike-through reference price of
12 \$24.95 as documented by the “Wayback Machine.”³

13 18. After the three month period, on May 9, 2025, Defendant offered the exact same Product
14 for the allegedly discounted price of \$20.00 purportedly reflecting a discount from a strike-through
15 reference price of \$24.95 as documented by the “Wayback Machine.”⁴

16 19. On May 25, 2025, Defendant offered the exact same Product for the allegedly discounted
17 price of \$15.95 purportedly reflecting a discount from a strike-through reference price of \$24.95 as
18 documented by the “Wayback Machine.”⁵

19
20
21 ¹ The “Wayback Machine” is a digital archive of the World Wide Web that allows users to view past versions of websites.
22 <https://web.archive.org/> (last visited June 30, 2025). It automatically captures snapshots of webpages at various points in
23 time, and stores them with timestamps. It is used to determine how a website looked in the past, analyze the evolution of a
24 website, and retrieve information that may no longer be available on the current iteration of a website. Information retrieved
25 via the Wayback Machine is generally treated as authoritative. “In this district, the contents of web pages available through
26 the Wayback machine are generally proper subjects of judicial notice ‘as facts that can be accurately and readily determined
27 from sources whose accuracy cannot reasonably be questioned[.]’” *Valenzuela v. The Kroger Co.*, 2024 WL 1336959, at *3
28 n.7 (C.D. Cal. Mar. 28, 2024) (Gee, J.) (citations omitted).

²<https://web.archive.org/web/20241129192927/https://www.threadless.com/search?departments=accessories&style=hat&type=trucker-hat>

³<https://web.archive.org/web/20241214022002/https://www.threadless.com/search?departments=accessories&style=hat&type=trucker-hat>

⁴<https://web.archive.org/web/20250509144126/https://www.threadless.com/search?style=hat&type=trucker-hat&departments=accessories>

⁵<https://web.archive.org/web/20250525032030/https://www.threadless.com/search?style=hat&type=trucker-hat&departments=accessories>

1 20. Even subsequent to Plaintiff's purchase of the Product, on June 2, 2025, Defendant
2 offered the exact same Product for the allegedly discounted price of \$15.95 purportedly reflecting a
3 discount from a strike-through reference price of \$24.95.⁶ A screenshot image of the Product's
4 advertising on June 2, 2025, is depicted in paragraph 11 above.

5 21. Defendant's unlawful strike-through reference pricing scheme is not limited to the
6 Product itself. For example, on June 19, 2022, Defendant advertised a wall hanging product named
7 "Not Fast, Not Furious" for the allegedly discounted price of \$22.45 purportedly reflecting a discount
8 from a strike-through reference price of \$23.45.⁷

9 22. On October 17, 2022, Defendant advertised a wall hanging product named "Not Fast,
10 Not Furious" for the allegedly discounted price of \$18.75 purportedly reflecting a discount from a strike-
11 through reference price of \$23.45.⁸

12 23. On October 24, 2022, Defendant advertised a wall hanging product named "Not Fast,
13 Not Furious" for the allegedly discounted price of \$18.75 purportedly reflecting a discount from a strike-
14 through reference price of \$23.45.⁹

15 24. On November 14, 2022, Defendant advertised a wall hanging product named "Not Fast,
16 Not Furious" for the allegedly discounted price of \$18.75 purportedly reflecting a discount from a strike-
17 through reference price of \$23.45.¹⁰

18 25. On January 20, 2023, Defendant advertised a wall hanging product named "Not Fast, Not
19 Furious" for the allegedly discounted price of \$22.45 purportedly reflecting a discount from a strike-
20 through reference price of \$23.45.¹¹

21
22
23 ⁶ Evidence of Defendant's pricing obtained via an investigation conducted *subsequent* to Plaintiff's purchase is recognized
24 as appropriate in similar reference pricing cases as was the case in *Real v. Y.M.I. Jeanswear, Inc.*, 2017 WL 11675686 (C.D.
25 Cal. Sept. 1, 2017) (Bernal, J.), in which the "Plaintiffs' investigation took place *a year after Plaintiff Real's purchase.*" *Id.*
26 at *5 (emphasis added); *id.* ("***This Court declines to find that an investigation must take place prior to or concurrently with***
27 ***a plaintiff's purchase to plead a sufficient claim.***") (emphasis added); *Ochoa v. Zeroo Gravity Games LLC*, 2023 WL
28 4291650, at *9 (C.D. Cal. May 24, 2023) (Wu, J.) (tentative ruling) ("Evidence that the same sale price was offered on
multiple occasions *at later dates* supports those theories.") (emphasis added), *adopted in*, No. 2:22-cv-05896-GW-AS, Doc.
53 (C.D. Cal. May 25, 2023).

⁷ <https://web.archive.org/web/20220619103018/https://www.threadless.com/search/?style=tapestry&departments=home>

⁸ <https://web.archive.org/web/20221017093043/https://www.threadless.com/search/?style=tapestry&departments=home>

⁹ <https://web.archive.org/web/20221024094936/https://www.threadless.com/search/?style=tapestry&departments=home>

¹⁰ <https://web.archive.org/web/20221114105630/https://www.threadless.com/search/?style=tapestry&departments=home>

¹¹ <https://web.archive.org/web/20230120080226/https://www.threadless.com/search/?style=tapestry&departments=home>

1 26. On February 6, 2023, Defendant advertised a wall hanging product named “Not Fast, Not
2 Furious” for the allegedly discounted price of \$22.45 purportedly reflecting a discount from a strike-
3 through reference price of \$23.45.¹²

4 27. On May 26, 2023, Defendant advertised a wall hanging product named “Not Fast, Not
5 Furious” for the allegedly discounted price of \$27.95 purportedly reflecting a discount from a strike-
6 through reference price of \$34.95.¹³

7 28. On June 2, 2023, Defendant advertised a wall hanging product named “Not Fast, Not
8 Furious” for the allegedly discounted price of \$27.95 purportedly reflecting a discount from a strike-
9 through reference price of \$34.95.¹⁴

10 29. On June 9, 2023, Defendant advertised a wall hanging product named “Not Fast, Not
11 Furious” for the allegedly discounted price of \$31.45 purportedly reflecting a discount from a strike-
12 through reference price of \$34.95.¹⁵

13 30. On June 16, 2023, Defendant advertised a wall hanging product named “Not Fast, Not
14 Furious” for the allegedly discounted price of \$31.45 purportedly reflecting a discount from a strike-
15 through reference price of \$34.95.¹⁶

16 31. On August 11, 2023, Defendant advertised a wall hanging product named “Not Fast, Not
17 Furious” for the allegedly discounted price of \$31.45 purportedly reflecting a discount from a strike-
18 through reference price of \$34.95.¹⁷

19 32. On August 19, 2023, Defendant advertised a wall hanging product named “Not Fast, Not
20 Furious” for the allegedly discounted price of \$31.45 purportedly reflecting a discount from a strike-
21 through reference price of \$34.95.¹⁸

22 33. On October 16, 2023, Defendant advertised a wall hanging product named “Not Fast,
23 Not Furious” for the allegedly discounted price of \$27.95 purportedly reflecting a discount from a strike-
24

25 ¹²<https://web.archive.org/web/20230206200334/https://www.threadless.com/search/?style=tapestry&departments=home>

26 ¹³<https://web.archive.org/web/20230526063207/https://www.threadless.com/search/?style=tapestry&departments=home>

27 ¹⁴<https://web.archive.org/web/20230602072301/https://www.threadless.com/search/?style=tapestry&departments=home>

28 ¹⁵<https://web.archive.org/web/20230609081904/https://www.threadless.com/search/?style=tapestry&departments=home>

¹⁶<https://web.archive.org/web/20230616084810/https://www.threadless.com/search/?style=tapestry&departments=home>

¹⁷<https://web.archive.org/web/20230811103551/https://www.threadless.com/search/?style=tapestry&departments=home>

¹⁸<https://web.archive.org/web/20230819095841/https://www.threadless.com/search/?style=tapestry&departments=home>

1 through reference price of \$34.95.¹⁹

2 34. On December 7, 2023, Defendant advertised a wall hanging product named “Not Fast,
3 Not Furious” for the allegedly discounted price of \$20.95 purportedly reflecting a discount from a strike-
4 through reference price of \$34.95.²⁰

5 35. On January 30, 2024, Defendant advertised a wall hanging product named “Not Fast, Not
6 Furious” for the allegedly discounted price of \$27.95 purportedly reflecting a discount from a strike-
7 through reference price of \$34.95.²¹

8 36. On May 16, 2024, Defendant advertised a wall hanging product named “Not Fast, Not
9 Furious” for the allegedly discounted price of \$29.95 purportedly reflecting a discount from a strike-
10 through reference price of \$34.95.²²

11 37. On June 21, 2024, Defendant advertised a wall hanging product named “Not Fast, Not
12 Furious” for the allegedly discounted price of \$29.95 purportedly reflecting a discount from a strike-
13 through reference price of \$34.95.²³

14 38. On June 17, 2025, Defendant advertised a wall hanging product named “Not Fast, Not
15 Furious” for the allegedly discounted price of \$29.95 purportedly reflecting a discount from a strike-
16 through reference price of \$34.95.²⁴

17 39. The foregoing pricing and advertising practices reflecting high-pressure fake sales are
18 patently deceptive. They are intended to mislead customers into believing that they are getting a bargain
19 by buying products from Defendant on sale and at a substantial and deep discount. The reference price
20 is, therefore, an artificially inflated price. In turn, the advertised discounts are nothing more than
21 phantom markdowns.

22 40. “An advertised discount off a seller’s regular price can be deceptive where (1) the alleged
23 sale price does not in fact differ from the regular price at which the product is ordinarily sold; or (2) ‘the
24 alleged original price constituted a false valuation of the product.’” *Knapp v. Art.com, Inc.*, No. 16-cv-

25
26 ¹⁹<https://web.archive.org/web/20231016124755/https://www.threadless.com/search/?style=tapestry&departments=home>

27 ²⁰<https://web.archive.org/web/20231207192700/https://www.threadless.com/search/?style=tapestry&departments=home>

28 ²¹<https://web.archive.org/web/20240130225454/https://www.threadless.com/search/?style=tapestry&departments=home>

²²<https://web.archive.org/web/20240516120119/https://www.threadless.com/search/?style=tapestry&departments=home>

²³<https://web.archive.org/web/20240621232724/https://www.threadless.com/search/?style=tapestry&departments=home>

²⁴<https://web.archive.org/web/20250617114845/https://www.threadless.com/search/?style=tapestry&departments=home>

1 00768-WHO, 2016 WL 3268995, at *3 (N.D. Cal. June 15, 2016) (quoting 1A Calmann on Unfair
2 Competition, Tr. & Mono. § 5:59 (4th ed. 2015) and citing *Hinojos v. Kohl's Corp.*, 718 F.3d 1098,
3 1102 (9th Cir. 2013) (noting that the plaintiff alleged both (1) “that he purchased several items that were
4 advertised as being substantially reduced from their ‘original’ or ‘regular’ prices but that were, in reality,
5 routinely sold by [the defendant] at the advertised ‘sale’ prices,” and (2) “that the advertised ‘original’
6 or ‘regular’ prices did not reflect prevailing retail market prices”); 16 C.F.R. § 233.1(a) (an advertised
7 “reduction from the advertiser’s own former price for an article” is legitimate where “the former price
8 is the *actual, bona fide price* at which the article was offered to the public on a regular basis for a
9 reasonably substantial period of time”) (emphasis added by *Knapp*)).

10 41. Defendant’s perpetual sales of the Product (and other products) have caused its purported
11 sales prices to be no different from the prices at which it regularly sells the Product (and other products).
12 That is, Defendant does not ordinarily sell its Product (or other products) at the advertised regular prices
13 in violation of section 17500 of California’s Business and Professions Code.

14 42. In addition, Plaintiff is informed and believes and thereon alleges that the advertised
15 regular prices on Defendant’s Website are out of step with prevailing market prices in violation of
16 section 17501 of California’s Business and Professions Code. In light of the foregoing investigation of:
17 (i) the Product’s sales price on Defendant’s Website conducted by Plaintiff’s counsel regarding the three-
18 month period before Plaintiff’s purchase of the Product referenced in the preceding paragraphs; (ii) the
19 time period before such pertinent three-month period began; and (iii) the time period after Plaintiff’s
20 purchase of the Product, Plaintiff is informed and believes and thereon alleges that the Product purchased
21 by Plaintiff was not offered for sale on Defendant’s Website in the majority of daily offerings at the
22 reference price during the requisite statutory three-month period, such that the reference price was not
23 the “prevailing market price” for the Product during the requisite statutory three-month period. *People*
24 *v. Superior Court*, 34 Cal. App. 5th 376, 414 (2019) (“[T]he requisite market price is reasonably viewed
25 as the *common or predominant price* during that [pertinent three-month] period. For that reason, in a
26 typical case, a retailer may avoid liability under the statute by advertising a former price that obtains on
27 *all or most of the days* within the pertinent three-month period.”) (emphasis added); (recognizing the
28 “statistical ‘mode’ price of an advertised item – that is, the most commonly occurring price – as an

1 objective standard for determining the prevailing three-month market price for that item and explaining
2 that “the most straightforward application of the concept of the mode to the facts alleged here is to
3 identify the three-month prevailing price for an item as *the price offered in the majority of the ‘daily*
4 *offerings’ for the period, if there is one, and otherwise as the most frequently occurring price in those*
5 *offerings*”) (emphasis added).

6 43. Defendant knows that the prices for the Product are fake and artificially inflated and
7 intentionally uses them in its deceptive pricing scheme on its Website to increase sales and profits by
8 misleading consumers to believe that they are buying products at a substantial discount. Defendant
9 thereby induces customers to buy products they never would have bought—or at the very least, to pay
10 more for merchandise than they otherwise would have if Defendant was simply being truthful about its
11 “sales.”

12 44. Defendant used strike-through pricing for the Product and other products to indicate that
13 such products were on “sale,” which provided a false sense of urgency to consumers including Plaintiff
14 because, in reality, the sale price that was advertised to Plaintiff and other consumers was routinely
15 offered. 16 C.F.R. § 233.5 (“[Retailers] should not ... make a ‘limited’ offer which, in fact, is not
16 limited.”).

17 45. The effectiveness of Defendant’s deceitful pricing scheme is supported by longstanding
18 scholarly research. In the seminal article entitled *Comparative Price Advertising: Informative or*
19 *Deceptive?* (cited in *Hinojos v. Kohl’s Corp.*, 718 F.3d 1098, 1106 (9th Cir. 2013)), Professors Dhruv
20 Grewal and Larry D. Compeau write that, “[b]y creating an impression of savings, the presence of a
21 higher reference price enhances subjects’ perceived value and willingness to buy the product.” Dhruv
22 Grewal & Larry D. Compeau, *Comparative Price Advertising: Informative or Deceptive?*, 11 J. PUB.
23 POL’Y & MKTG. 52, 55 (1992). Therefore, “empirical studies indicate that, as discount size increases,
24 consumers’ perceptions of value and their willingness to buy the product increase, while their intention
25 to search for a lower price decreases.” *Id.* at 56. For this reason, in *Hinojos*, the Ninth Circuit held that
26 a plaintiff making a claim of deceptive pricing (strikingly similar to the claim at issue here) had standing
27 to pursue his claim against the defendant retailer. In doing so, the Court observed that “[m]isinformation
28 about a product’s ‘normal’ price is . . . significant to many consumers in the same way as a false product

1 label would be.” *Hinojos*, 718 F.3d at 1106.

2 46. Professors Compeau and Grewal reached similar conclusions in a 2002 article: “decades
3 of research support the conclusion that advertised reference prices do indeed enhance consumers’
4 perceptions of the value of the deal.” Dhruv Grewal & Larry D. Compeau, *Comparative Price*
5 *Advertising: Believe It or Not*, 36 J. OF CONSUMER AFFAIRS 287 (2002). The professors also found that
6 “[c]onsumers are influenced by comparison prices even when the stated reference prices are implausibly
7 high.” *Id.*

8 47. In another scholarly publication, Professors Joan Lindsey-Mullikin and Ross D. Petty
9 concluded that “[r]eference price ads strongly influence consumer perceptions of value . . . Consumers
10 often make purchases not based on price but because a retailer assures them that a deal is a good bargain.
11 This occurs when . . . the retailer highlights the relative savings compared with the prices of
12 competitors.” Joan Lindsey-Mullikin & Ross D. Petty, *Marketing Tactics Discouraging Price Search:*
13 *Deception and Competition*, 64 J. OF BUS. RESEARCH 67 (2011).

14 48. Similarly, according to Professors Praveen K. Kopalle and Joan Lindsey-Mullikin,
15 “research has shown that retailer-supplied reference prices clearly enhance buyers’ perceptions of value”
16 and “have a significant impact on consumer purchasing decisions.” Praveen K. Kopalle & Joan Lindsey-
17 Mullikin, *The Impact of External Reference Price on Consumer Price Expectations*, 79 J. OF RETAILING
18 225 (2003).

19 49. The results of a 1990 study by Professors Jerry B. Gotlieb and Cyndy Thomas Fitzgerald,
20 came to the conclusion that “reference prices are important cues consumers use when making the
21 decision concerning how much they are willing to pay for the product.” Jerry B. Gotlieb & Cyndy
22 Thomas Fitzgerald, *An Investigation into the Effects of Advertised Reference Prices on the Price*
23 *Consumers Are Willing to Pay for the Product*, 6 J. OF APP’D BUS. RES. 1 (1990). This study also
24 concluded that “consumers are likely to be misled into a willingness to pay a higher price for a product
25 simply because the product has a higher reference price.” *Id.*

26 50. The unmistakable inference to be drawn from the foregoing research and the Ninth
27 Circuit’s opinion in *Hinojos* is that the deceptive advertising through the use of false reference pricing
28 employed here by Defendant is intended to, and does in fact, influence customer behavior by artificially

1 inflating customer perceptions of a given item’s value and causing customers to spend money that they
2 otherwise would not have, purchase items they otherwise would not have, and/or spend more money for
3 a product than they otherwise would have absent the deceptive advertising

4 51. Defendant had the opportunity to follow decades of significant industry guidance from
5 the federal Government for its bargain advertising and comparative price advertising practices. Federal
6 law regulates bargain advertising practices under the general false advertising statutes, 15 U.S.C. §§ 52
7 and 55, but the Code of Federal Regulations set forth guidelines issued by the Federal Trade Commission
8 (“FTC”) that provide detailed descriptions, explanations of what types of advertising may be misleading,
9 and guidance. 16 C.F.R. § 1.5 (“Industry guides are administrative interpretations of laws administered
10 by the [Federal Trade] Commission for the guidance of the public in conducting its affairs in conformity
11 with legal requirements.”).

12 52. For example, the FTC has provided written guidance on former price comparisons in
13 relevant part, “One of the most commonly used forms of bargain advertising is to offer a reduction from
14 the advertiser’s own former price for an article. If the former price is the actual, bona fide price at which
15 the article was offered to the public *on a regular basis for a reasonably substantial period of time*, it
16 provides a legitimate basis for the advertising of a price comparison. Where the former price is genuine,
17 the bargain being advertised is a true one. If, on the other hand, the former price being advertised is not
18 bona fide but fictitious—for example, where *an artificial, inflated price was established for the purpose*
19 *of enabling the subsequent offer of a large reduction—the “bargain” being advertised is a false one;*
20 *the purchaser is not receiving the unusual value he expects. In such a case, the “reduced” price is, in*
21 *reality, probably just the seller’s regular price.” (16 C.F.R. § 233.1(a) (emphasis added).)*

22 53. The FTC has also stated, “A former price is not necessarily fictitious merely because no
23 sales at the advertised price were made. The advertiser should be especially careful, however, in such a
24 case, that the price is one at which the product was openly and actively offered for sale, *for a reasonably*
25 *substantial period of time, in the recent, regular course of his business*, honestly and in good faith—
26 and, of course, *not for the purpose of establishing a fictitious higher price on which a deceptive*
27 *comparison might be based.” (16 C.F.R. § 233.1(b) (emphasis added).)*

28 54. The FTC has also stated in addressing the topic of retail price comparisons, “Whenever

1 an advertiser represents that he is selling below the prices being charged in his area for a particular
2 article, he should be reasonably certain that the higher price he advertises does not appreciably exceed
3 the price at which *substantial sales of the article are being made in the area*—that is, a sufficient
4 number of sales so that a consumer would consider a reduction from the price to represent a genuine
5 bargain or saving.” (16 C.F.R. § 233.2 (emphasis added).)

6 55. Plaintiff seeks damages and, in the alternative, restitution. Plaintiff is permitted to seek
7 equitable remedies in the alternative because Plaintiff has no adequate remedy at law.

8 56. A legal remedy is not adequate if it is not as certain as an equitable remedy. The elements
9 of Plaintiff’s equitable claims are different and do not require the same showings as Plaintiff’s legal
10 claims. For example, Plaintiff’s theory of liability under section 17501 (an equitable claim) is predicated
11 on a specific statutory provision, which prohibits advertising merchandise using a former price if that
12 price was not the prevailing market price within the statutory three-month period. (Cal. Bus. & Prof.
13 Code § 17501.) Plaintiff may be able to prove these more straightforward factual elements, and thus
14 prevail under section 17501, while not being able to prove one or more elements of Plaintiff’s legal
15 claim under the CLRA seeking damages.

16 57. In addition, to obtain a full refund as damages, Plaintiff must show that the Product that
17 Plaintiff bought has essentially no market value. In contrast, Plaintiff can seek restitution without
18 making this showing. This is because Plaintiff purchased a Product that Plaintiff would not otherwise
19 have purchased, but for Defendant’s representations. Obtaining a full refund at law is less certain than
20 obtaining a refund in equity.

21 58. Finally, legal damages are inadequate to remedy the imminent threat of future harm that
22 Plaintiff faces. Only an injunction can remedy this threat of future harm. Plaintiff would purchase either
23 the Product or other products from Defendant again in the future if Plaintiff could feel sure that
24 Defendant’s regular prices accurately reflected Defendant’s former prices and the market value of the
25 products, and that its discounts were truthful. But, without an injunction, Plaintiff has no realistic way
26 to know which—if any—of Defendant’s regular prices, discounts, and sales are not false or deceptive.
27 Thus, Plaintiff is unable to rely on Defendant’s advertising in the future, and so Plaintiff cannot purchase
28 products that Plaintiff would like to purchase.

V. CLASS ACTION ALLEGATIONS

59. Plaintiff brings this action on behalf of all persons similarly situated, and seeks certification of the following class:

All persons who purchased any product from Defendant’s Website while in California within the statute of limitations period at a purported discount from a higher reference price.

60. 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 Defendant, 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 his motion for class certification, or at any other time, based upon, *inter alia*, changing circumstances and/or new facts obtained during discovery.

61. **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 Plaintiff is informed and believes, and thereon, alleges that there are at least 100 members of the Class.

62. **Typicality.** Plaintiff’s claims are typical of those of other members of the Class, all of whom have suffered similar harm due to Defendant’s course of conduct as described in this Complaint.

63. **Adequacy of Representation.** Plaintiff is an adequate representative of the Class and will fairly and adequately protect the interests of the Class. Plaintiff has retained attorneys who are experienced in the handling of complex litigation and class actions, and Plaintiff and Plaintiff’s counsel intend to prosecute this action vigorously.

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

a) Whether, during the Class Period, Defendant advertised false reference prices of its

1 products offered on its Website.

2 b) Whether, during the Class Period, Defendant advertised price discounts from false
3 reference prices on products offered on its Website.

4 c) Whether Defendant's deceptive pricing scheme using false reference prices constitutes
5 false advertising in violation of the California False Advertising Law under Business &
6 Professions Code § 17500 *et seq.*

7 c) Whether Defendant's deceptive pricing scheme using false reference prices violate the
8 CLRA under Civil Code § 1770.

9 65. **Superiority.** A class action is superior to other available methods for the fair and
10 efficient adjudication of this controversy because individual litigation of the claims of all members of
11 the Class is impracticable.

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

19 **VI. CAUSE OF ACTION**

20 **FIRST CAUSE OF ACTION**

21 **Violation of California's False Advertising Law**

22 **Cal. Bus. & Prof. Code § 17500 *et seq.***

23 67. Plaintiff incorporates by reference the foregoing paragraphs as if set forth hereinafter.

24 68. Section 17500 of the California Business and Professions Code states in relevant part, "It
25 is unlawful for any person, firm, corporation or association, or any employee thereof with ***intent directly***
26 ***or indirectly to dispose of*** real or ***personal property*** or to perform services, professional or otherwise,
27 or anything of any nature whatsoever or ***to induce the public to enter into any obligation relating***
28 ***thereto, to make or disseminate or cause to be made or disseminated before the public in this state,*** or

1 to make or disseminate or cause to be made or disseminated from this state before the public in any state,
2 in any newspaper or other publication, or *any advertising device*, or by public outcry or proclamation,
3 or *in any other manner or means whatever, including over the Internet, any statement*, concerning
4 that real or *personal property* or those services, professional or otherwise, or *concerning any*
5 *circumstance or matter of fact connected with the proposed* performance or *disposition thereof, which*
6 *is untrue or misleading, and which is known, or which by the exercise of reasonable care should be*
7 *known, to be untrue or misleading, or for any person, firm, or corporation to so make or disseminate*
8 *or cause to be so made or disseminated any such statement as part of a plan or scheme with the intent*
9 *not to sell that personal property* or those services, professional or otherwise, *so advertised at the price*
10 *stated therein, or as so advertised.*” (Cal. Bus. & Prof. Code § 17500) (emphasis added).

11 69. Section 17501 of the Business and Professions Code provides in relevant part that “no
12 price shall be advertised as a former price of any advertised thing, unless the alleged former price was
13 the prevailing market price . . . within three months next immediately preceding the publication of the
14 advertisement or unless the date when the alleged former price did prevail is clearly, exactly, and
15 conspicuously stated in the advertisement.” (Cal Bus. & Prof. Code § 17501.)

16 70. By committing the acts alleged in this operative Complaint, Defendant has violated
17 Business and Professions Code §§ 17500 *et seq.*

18 71. For example, here, Defendant does not ordinarily sell its products including, but not
19 limited to, the Product at the advertised regular prices. And, the Product was not sold at the higher
20 reference price in the pertinent statutory three-month period prior to Plaintiff’s purchase of the Product
21 via the Website and Class members’ purchases of Defendant’s products via the Website.

22 72. As a direct and proximate result of Defendant’s misleading and false advertisements,
23 Plaintiff and members of the Class have suffered injury in fact and have lost money.

24 **SECOND CAUSE OF ACTION**

25 **Violation of Consumers Legal Remedies Act**

26 **Cal. Civil Code § 1750 *et seq.***

27 73. Plaintiff incorporates by reference the foregoing paragraphs as if set forth hereinafter.

28 74. The CLRA prohibits certain “unfair methods of competition and unfair or deceptive acts

1 or practices” in connection with the sale of goods or services to any consumer. (Cal. Civ. Code §
2 1770(a).)

3 75. The practices described herein, specifically Defendant’s advertising and sale of its
4 products, were intended to result and did result in the sale of such products to the consuming public and
5 violated and continues to violate: (i) section 1770(a)(9) of the Civil Code by “[a]dvertising goods ...
6 with intent not to sell them as advertised”; and (ii) section 1770(a)(13) of the Civil Code by “[m]aking
7 false or misleading statements of fact concerning reasons for, existence of, or, amounts of, price
8 reductions.”

9 76. Plaintiff is an individual who acquired, by purchase, the Product, which is a good, for
10 personal, family, or household purposes.

11 77. Defendant deceived Plaintiff by advertising the price of the Product in a misleading
12 manner contrary to California statutes including sections 17500 and 17501 of the Business and
13 Professions Code.

14 78. Defendant made material misrepresentations to deceive Plaintiff and Class members.

15 79. In doing so, Defendant intentionally misrepresented and concealed material facts from
16 Plaintiff and Class members. Said misrepresentations and concealment were done with the intention of
17 deceiving Plaintiff and Class members, and depriving Plaintiff and Class members of their rights and
18 money.

19 80. Defendant knew that the Product’s advertising of its price on its Website was misleading
20 and deceptive and the advertising of its other products on its Website was similarly misleading and
21 deceptive.

22 81. As mentioned above, Plaintiff read and relied upon the strike-through reference pricing
23 advertising the Product that she purchased before completing her online purchase of the Product via the
24 Website.

25 82. Defendant’s advertising of the Product through reference pricing was a material factor in
26 Plaintiff’s decision to purchase the Product. Based on Defendant’s advertising of the Product, Plaintiff
27 reasonably believed that the reference price of the Product purchased by Plaintiff was genuine. Had
28 Plaintiff known the truth of the matter, *i.e.*, that the reference price of the Product was false or

1 misleading, Plaintiff would not have purchased the Product.

2 83. Plaintiff and Class members have suffered injury in fact and have lost money as a result
3 of Defendant’s deceptive, unfair, and unlawful conduct.

4 84. Punitive damages are also sought herein based upon Defendant’s deceptive conduct,
5 which indicates that Defendant is guilty of oppression, fraud, or malice.

6 85. Prior to the commencement of this action, Plaintiff sent a letter notifying Defendant of
7 the particular wrongdoing that violates the CLRA and demanded that Defendant appropriately correct
8 its advertising and/or provide another appropriate remedy of the violations to the putative Class of
9 California consumers. More than 30 days elapsed since Plaintiff sent such demand letter to Defendant,
10 but Defendant failed to respond by providing an appropriate remedy of the violations or offering to do
11 so within a reasonable time to the entire putative Class.

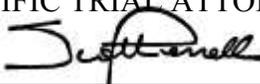
12 **PRAYER FOR RELIEF**

13 WHEREFORE, Plaintiff seeks judgment against Defendant as follows:

- 14 a. For an order certifying that the action be maintained as a class action, that Plaintiff be
- 15 designated as the class representative, and that undersigned counsel be designated as
- 16 class counsel;
- 17 b. For all available legal, equitable, and declaratory relief;
- 18 c. For statutory damages;
- 19 d. For punitive damages;
- 20 e. For attorneys’ fees and costs as allowed by law; and
- 21 f. For any and all other relief at law or equity that may be appropriate.

22
23
24 Dated: August 26, 2025

PACIFIC TRIAL ATTORNEYS, APC

25 By: 
26 Scott J. Ferrell
27 Attorneys for Plaintiff and the Putative Class
28