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CARMIN WONG

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

CARMIN WONG, individually and on
behalf of all others similarly situated,

Plaintiff,

v.

MATTRESS FIRM, INC.; and DOES
1-100, inclusive,

Defendants.

Case No.:

CLASS ACTION COMPLAINT

- 1. VIOLATION OF CALIFORNIA'S CONSUMERS LEGAL REMEDIES ACT**
- 2. VIOLATIONS OF CALIFORNIA'S UNFAIR COMPETITION LAW [CAL. BUS. § 17200, ET. SEQ.]**

DEMAND FOR JURY TRIAL

1 Plaintiff CARMIN WONG (“Plaintiff Wong” or “Plaintiff”) brings this action
2 against MATTRESS FIRM, INC.; and DOES 1-100, inclusive, (collectively referred
3 to herein as “Defendants” and/or “Mattress Firm”), individually and on behalf of all
4 others similarly situated, and alleges upon personal knowledge as to Plaintiff’s acts
5 and experiences, and, as to all other matters, upon information and belief, including
6 investigation conducted by Plaintiff’s attorneys.

7 **NATURE OF THE ACTION**

8 1. This is a consumer protection action that seeks to remedy Defendants’
9 unlawful and deceptive business practices with respect to misleading sale promotions
10 advertised in Defendants’ retail brick and mortar locations as limited time discounted
11 offers that, in reality, never end.

12 2. Advertised “sale” prices are important to consumers as they are more
13 likely to purchase an item if they know they are getting a good deal. If consumers
14 think a sale will end soon, they are more likely to buy now, rather than wait,
15 comparison shop, and/or buy a different product.

16 3. While there is nothing wrong with legitimate sales, fake sales that include
17 made-up regular prices, made-up discounts, and made-up expirations are deceptive
18 and illegal. Defendants’ supposed “sales” are just that – fake, deceptive, and illegal.

19 4. As the Federal Trade Commission advises in its *Guides Against*
20 *Deceptive Pricing*, it is deceptive to make up an “artificial, inflated price ... for the
21 purpose of enabling the subsequent offer of a large reduction” of that price. 16 C.F.R
22 § 233.1. As a result, false sales violate California’s general prohibition on unfair and
23 deceptive business practices. *See* Cal. Bus. Prof. Code § 17200 (“UCL”).

24 5. Additionally, California law provides that “No price shall be advertised
25 as a former price unless the alleged former price was the prevailing market price ...
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1 within three months next immediately preceding” the advertising. Cal. Bus. & Prof.
2 Code § 17501 (“FAL”).

3 6. Here, Defendants manufacture, market, advertise, and/or sell mattresses,
4 and mattress related products, including box springs and bed bases, pillows, bedding,
5 and furniture among other related products (the “Products”). The Products are sold in
6 store through Defendants’ retail locations where Plaintiff made her purchases and
7 online through Defendants’ website, mattressfirm.com.

8 7. Defendants prominently advertise sales for mattresses and related
9 products in their retail locations in California and online through their website. These
10 advertisements include large discounts, such as up to 46% off purported “regular”
11 prices, purported discounts, and sale end dates that purportedly indicate when the sale
12 will end.

13 8. In reality, everything about these advertisements is false. The sales
14 Defendants advertise are not limited time-events where the Products are marked down
15 from their regular retail prices because Defendants’ Products never retail at the
16 purported regular price listed in strikethrough font. In fact, the Products always retail
17 at a much lower price than the “regular” price. And when the sale end date expires,
18 the sales do not end. Instead, they are immediately replaced by a different sale offering
19 comparable discounts or Defendants simply set a new purported sale end date.
20 Defendants’ false and misleading sales practices violate provisions of the California's
21 Consumer Legal Remedies Act, the UCL, and the FAL.

22 **JURISDICTION AND VENUE**

23 9. This Court has jurisdiction over this lawsuit under the Class Action
24 Fairness Act, 28 U.S.C. § 1332(d)(2), because this is a proposed class action in which:
25 (i) there are at least 100 class members; (ii) the aggregate amount in controversy
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1 exceeds \$5,000,000, exclusive of interest and costs; and (iii) at least one putative class
2 member and one Defendant are citizens of different states.

3 10. Venue is proper in this district pursuant to 28 U.S.C. § 1391 because a
4 substantial part of the events or omissions giving rise to the claims herein occurred in
5 this judicial district. As set forth herein, Defendants own and operate several retail
6 locations within this district from which it has marketed, advertised, and sold goods
7 to Plaintiff and Class Members.

8 11. This Court has personal jurisdiction over Defendants because Defendants
9 conduct and transact business in the State of California though their retail locations
10 and website and Plaintiff is a resident of the State of California.

11 **PARTIES**

12 12. Plaintiff CARMIN WONG (“Plaintiff Wong”) is an individual consumer
13 who, at all times relevant to this action, was a citizen of and resided in California.

14 13. Plaintiff Wong purchased including but not limited to, mattress(es), from
15 Defendants’ store(s) located in San Francisco, California, on or around including but
16 not limited to, the following dates: December 17, 2021, May 27, 2022 and December
17 18, 2022.

18 14. Defendant MATTRESS FIRM, INC. is a Delaware Corporation that at all
19 relevant times, was authorized to do business in the State of California and is doing
20 business in California. Defendant MATTRESS FIRM, INC. does business as
21 Mattress Firm.

22 15. The true names and capacities of the DOE Defendants sued herein as
23 DOES 1 through 100, inclusive, are currently unknown to Plaintiff, who therefore
24 sues each such Defendant by said fictitious names. Each of the Defendants designated
25 herein as a DOE is legally responsible for the unlawful acts alleged herein. Plaintiff
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1 will seek leave of Court to amend this Complaint to reflect the true names and
2 capacities of the Doe Defendants when such identities become known.

3 16. Plaintiff is further informed and believes that, at all relevant times, each
4 Defendant was the principal, agent, partner, joint venturer, officer, director,
5 controlling shareholder, subsidiary, affiliate, parent corporation, successor in interest
6 and/or predecessor in interest of some or all of the other Defendants, and was engaged
7 with some or all of the other defendants in a joint enterprise for profit, and bore such
8 other relationships to some or all of the other Defendants so as to be liable for their
9 conduct with respect to the matters alleged in this complaint. Plaintiff is further
10 informed and believes and thereon alleges that each Defendant acted pursuant to and
11 within the scope of the relationships alleged above, and that at all relevant times, each
12 Defendant knew or should have known about, authorized, ratified, adopted, approved,
13 controlled, aided and abetted the conduct of all other Defendants.

14 **FACTUAL ALLEGATIONS**

15 17. Defendants manufacture, advertise, market, and/or sell mattresses, among
16 other related products directly to consumers through in their stores and on the website,
17 mattressfirm.com.

18 18. Defendants' website and in-store advertisement displays create an
19 illusion that consumers are receiving a limited-time discount. Defendants do this by
20 advertising misleading limited-time sales, false "regular" prices, and fake discounts
21 based on the purported regular price.

22 19. Defendants' in-store purported sales frequently advertise up to at least 69
23 % discounts off purported regular prices and advertise a purported limited-time
24 discount and/or purported sale-end date.

25 20. For example, at one of Defendants' store(s)/location(s) in San Francisco,
26 California, on or around including but not limited to, December 17, 2021, Defendants
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1 advertised a limited time in-store sale offering up to 46% off the Sleepys Memory
2 Foam Doze Mattress Twin Prime: \$799.99 down to \$374.00.

3 21. Similarly, at one of Defendants' retail location(s) in San Francisco,
4 California, on or around May 27, 2022, Defendants advertised a limited time in-store
5 sale offering up to 46% off the Doze 10" Medium Memory Foam Mattress-Prime-
6 Twin.

7 22. Notably, Plaintiff's receipt for Plaintiff's May 27, 2022 purchase of the
8 Doze 10" Medium Memory Foam Mattress-Prime-Twin displays a purported usual
9 retail price of \$799.99 next to the purportedly reduced price ("Extended Price") of
10 \$374.00.

11 23. Plaintiff Wong made an additional instore purchase at one of Defendants'
12 retail locations in San Francisco, California, on or around December 18, 2022: Curve
13 12" Medium Memory Foam Mattress – Prime – Queen.

14 24. Plaintiff Wong's receipt for her December 18, 2022 purchase(s) of the
15 Curve 12" Medium Memory Foam Mattress – Prime – Queen displays a purported
16 usual retail price of \$1,399.99 next to the purportedly reduced price ("Extended
17 Price") of \$674.00.

18 25. Like other customers, when Plaintiff Wong bought the mattresses,
19 Defendants advertised that a purported sale was going on and that the product(s) were
20 heavily discounted. When Plaintiff Wong purchased the mattresses from Defendants'
21 store the retail display signs indicated that the purported sale would end in a limited
22 time. Plaintiff Wong believed that the mattress(es) Plaintiff Wong purchased usually
23 retailed for the displayed regular price(s) of \$799.99 and/or \$1,399.99. Plaintiff Wong
24 further believed that she was getting a substantial discount from the regular price as
25 the advertised sale purportedly discounted the price down to \$674.00 and/or \$374.00.

1 Plaintiff Wong also believed that the sale would end soon as a result of Defendants’
2 prominently displayed purported sale-end time.

3 39. As described above, when Plaintiff Wong purchased Defendants’
4 Products, Plaintiff Wong believed the Products were on sale for a limited time,
5 however, as described herein Defendants’ purported sales are not limited in time
6 and/or start immediately after the previous sale ends.

7 40. Moreover, based on information and belief, the Products Plaintiff Wong
8 purchased never retail for the price that Defendants advertise as the regular
9 price(s)/strikethrough price(s).

10 41. On information and belief, Defendants’ in-store advertisements and
11 purported discounts mirrored the discounts that were advertised on Defendant’s
12 website, mattressfirm.com. The listed sales prices on Defendant’s website during the
13 relevant statutory period can be found on publicly available internet archives of
14 Defendant’s website. The prices listed on these archives show that the products that
15 Plaintiff purchased were never sold at the stated original retail prices, including within
16 three months from the dates that Plaintiff purchased each mattress from Defendant.

17 42. When Plaintiff Wong made Plaintiff Wong’s purchase(s), the Products
18 were purportedly on sale for a limited amount of time. Plaintiff relied on these
19 representations at the time of purchase.

20 43. In reality, these sales, were not for a limited time, and on information and
21 belief, the products offered for sale by Defendants, including the Products Plaintiff
22 Wong purchased, were never actually sold at the listed retail price on which the
23 purported discounted price is based within at least three months of her purchase, or
24 even at any time within the relevant statutory period. Moreover, Defendants run the
25 same and/or similar sale(s) for more than three months such that the Products are
26 never offered at the advertised “original” price in violation of California law.

1 44. For example, throughout the class period Defendants have routinely run
2 the same sale for over ninety days, simply retitling the sale with a different name in
3 accordance with a different theme, holiday or season (e.g., “Presidents Day,”
4 “Memorial Day Sale,” “Fourth of July”) with each so-called sale running immediately
5 into the next, such that the Product(s) are never actually sold at their “regular prices.”

6 45. Class Members, including but not limited to, Plaintiff Wong, relied on the
7 represented list prices falsely believing they were in fact the prices that the Products
8 were normally offered for sale outside the limited timeframe when a discounted sale
9 price was offered.

10 46. By listing fake regular prices and fake discounts, Defendants mislead
11 consumers into believing that they are getting a good deal, and that they need to act
12 fast in order to get the deal.

13 **A. Defendants’ advertisements violate California Law**

14 47. As the Federal Trade Commission states in its’ *Guides Against Deceptive*
15 *pricing*, “where an artificial, inflated price was established for the purpose of enabling
16 the subsequent offer of a large reduction – the ‘bargain’ being advertised is a false
17 one.” 16 C.F.R. § 233.1. Advertising such false “bargains” is false, misleading, and
18 unfair. Accordingly, it violates California’s Unfair Competition law, which bans
19 unlawful, unfair, or fraudulent” business acts and practices. *See* Cal. Bus. & Prof.
20 Code § 17200.

21 **California’s Consumers Legal Remedies Act**

22 48. In addition, California’s Consumers Legal Remedies Act, specifically
23 prohibits “[m]aking false or misleading statements of fact concerning reasons for,
24 existence of, or amounts of, price reductions.” Cal. Civ. Code § 1770(a)(13).
25 Defendants’ advertisements make false statements regarding the time limits of the
26 sale, when in fact the sale continues on a daily basis. Defendants’ advertisements also
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1 make false statements about the existence of the sale, and the amounts of price
2 reductions, when in fact, the Products are never sold at the advertised “regular” price.

3 **California’s False Advertising Law**

4 49. Further, under California law, “No price shall be advertised as a former
5 price ... unless the alleged former price was the prevailing market price ... within
6 three months next immediately preceding”). Cal. Bus. & Prof. Code § 17501. As
7 described in further detail above, Defendants advertise their Products using alleged
8 former prices that were not the prevailing market prices within the preceding three
9 months.

10 **California’s Unfair Competition Law**

11 50. Moreover, the UCL defines unfair business competition to include any
12 "unlawful, unfair, or fraudulent" act or practice. Cal. Bus. & Prof. Code § 17200.

13 51. A business act or practice is "unlawful" under the UCL if it violates any
14 other law or regulation.

15 52. In addition, a business act or practice is "unfair" under the UCL if it
16 offends an established public policy or is immoral, unethical, oppressive,
17 unscrupulous or substantially injurious to consumers.

18 53. Defendants’ conduct violated California’s Consumers Legal Remedies
19 Act, Cal. Civ. Code § 1770(1)(13), and California’s unfair competition laws by
20 advertising fake sales – that is, sales with made up regular prices, made up discounts,
21 and made up expirations that misled consumers.

22 **Defendants’ advertisements harm consumers.**

23 54. Based on Defendants’ advertisements, reasonable consumers would
24 expect that the listed regular prices are prices that Defendants sells its Products for.
25 Reasonable consumers would also expect that, if they purchase during the sale, they
26 will receive a discount from the regular purchase price.

1 55. In addition, consumers are more likely to buy the product if they believe
2 that the product is on sale and that they are getting a substantial discount.

3 56. Consumers that are presented with discounts are substantially more likely
4 to make the purchase. For example, "two-thirds of consumers have made a purchase
5 they weren't originally planning to make solely based on finding a coupon or
6 discount," while "80% [of consumers] said they feel encouraged to make a first-time
7 purchase with a brand that is new to them if they found an offer or discount."¹

8 57. As such, Defendants' advertisements harm consumers by inducing them
9 to make purchases based on false information.

10 **Plaintiff was misled by Defendants' Misrepresentations.**

11 58. On or around May 27, 2022, and December 18, 2022, Plaintiff Wong
12 made in-store purchases at Defendants' store(s) and/or location(s) in San Francisco
13 County. Specifically, Plaintiff Wong made an instore purchase at one of Defendants'
14 retail location(s) in San Francisco, California, on or around May 27, 2022: Doze 10"
15 Medium Memory Foam Mattress-Prime-Twin. Plaintiff Wong made an additional
16 instore purchase at one of Defendants' retail locations in San Francisco, California,
17 on or around December 18, 2022: Curve 12" Medium Memory Foam Mattress - Prime
18 - Queen.

19 59. Like other customers, when Plaintiff Wong bought the mattresses,
20 Defendants advertised that a purported sale was going on and that the product(s) were
21 heavily discounted. When Plaintiff Wong purchased the mattress(es) from

22
23 ¹ RetailMeNot Survey: Deals and Promotional Offers Drive Incremental Purchases
24 Online, Especially Among Millennial Buyers (prnewswire.com).
25 [https://www.prnewswire.com/news-releases/retailmenot-survey-deals-and-](https://www.prnewswire.com/news-releases/retailmenot-survey-deals-and-promotional-offers-drive-incremental-purchases-online-especially-among-millennial-buyers-300635775.html#:~:text=SocialBoost-)
26 [promotional-offers-drive-incremental-purchases-online-especially-among-](https://www.prnewswire.com/news-releases/retailmenot-survey-deals-and-promotional-offers-drive-incremental-purchases-online-especially-among-millennial-buyers-300635775.html#:~:text=SocialBoost-)
27 [millennial-buyers-300635775.html#:~:text=SocialBoost-](https://www.prnewswire.com/news-releases/retailmenot-survey-deals-and-promotional-offers-drive-incremental-purchases-online-especially-among-millennial-buyers-300635775.html#:~:text=SocialBoost-)
28 [,RetailMeNot%20Survey%3A%20Deals%20and%20Promotional%20Offers%20Dr](https://www.prnewswire.com/news-releases/retailmenot-survey-deals-and-promotional-offers-drive-incremental-purchases-online-especially-among-millennial-buyers-300635775.html#:~:text=SocialBoost-)
[ive%20Incremental%20Purchases%20Online,finding%20a%20coupon%20or%20di](https://www.prnewswire.com/news-releases/retailmenot-survey-deals-and-promotional-offers-drive-incremental-purchases-online-especially-among-millennial-buyers-300635775.html#:~:text=SocialBoost-)
[scount](https://www.prnewswire.com/news-releases/retailmenot-survey-deals-and-promotional-offers-drive-incremental-purchases-online-especially-among-millennial-buyers-300635775.html#:~:text=SocialBoost-). Last visited on April 16, 2024.

1 Defendants' store the retail display signs indicated that the purported sale would end
2 in a limited time. Plaintiff Wong believed that the mattress(es) Plaintiff Wong
3 purchased usually retailed for the displayed regular prices of \$799.99 and \$1,399.99.
4 Plaintiff Wong further believed that she was getting a substantial discount from the
5 regular price as the advertised sale purportedly discounted the \$799.99 price down to
6 \$374.00, and the \$1,399.99 price down to \$645.00. Plaintiff Wong also believed that
7 the sale would end soon as a result of Defendants' prominently displayed purported
8 sale-end time.

9 60. As described above, when Plaintiff Wong purchased Defendants'
10 products in store, Defendants advertised these products as being on a limited time sale
11 and at a discount from a purported regular price, and Plaintiff Wong believed the
12 Products were on sale for a limited time.

13 61. Moreover, based on information and belief, Defendants' products,
14 including but not limited to, the Product(s) Plaintiff Wong purchased, never retail for
15 the price(s) that Defendants advertise as the regular price(s)/strikethrough price(s).

16 62. Plaintiff Wong read and relied on the representations advertised in
17 Defendants' stores indicating that the Product(s) had the advertised "regular" price(s),
18 and that they were receiving a discount as compared to the regular price(s). Plaintiff
19 Wong would not have purchased the products if Plaintiff Wong knew that
20 Defendants' Products were not on sale, and that Plaintiff Wong was not in fact
21 receiving a discount.

22 **CLASS ALLEGATIONS**

23 63. Plaintiff brings this class action pursuant Cal. Code. Civ. Proc. § 382 on
24 behalf of the following class ("Class" or "Class Members"):

25 All persons who, while in the state of California, purchased one or
26 more of Defendants' Products advertised at a discount on in any one
27 or more of DEFENDANTS' stores at any time from four years

1 preceding the filing of this Complaint through certification.

2 64. Excluded from the from the Class are: (i) Defendants and their officers,
3 directors, and employees; (ii) any person who files a valid and timely request for
4 exclusion; and (iii) judicial officers and their immediate family members and
5 associated court staff assigned to the case.

6 65. Plaintiff reserves the right to amend or otherwise alter the class definition
7 presented to the Court at the appropriate time, or to propose sub-classes, in response
8 to facts learned through discovery, legal arguments advanced by Defendants, or
9 otherwise.

10 66. The Class is appropriate for certification because Plaintiff can prove the
11 elements of the claims on a classwide basis using the same evidence as would be used
12 to prove those elements in individual actions alleging the same claims.

13 67. Numerosity: Class Members are so numerous that joinder of all members
14 is impracticable. Plaintiff believes that there are hundreds of consumers who are Class
15 Members described above who have been damaged by Defendants' practices.

16 68. Commonality: There is a well-defined community of interest in the
17 common questions of law and fact affecting all Class Members. The questions of law
18 and fact common to the Class Members which predominate over any questions which
19 may affect individual Class Members include, but are not limited to:

- 20 a. Whether Defendants made false or misleading statements of fact in their
21 advertisements;
- 22 b. Whether Defendants violated state consumer protection statutes;
- 23 c. Whether Defendants practices violate California's Consumers Legal
24 Remedies Act;
- 25 d. Whether Defendants practices violate California's Unfair Competition
26 law, California Business and Professions Code sections 17200, *et. seq.*,
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1 e. Damages needed to reasonably compensate Plaintiff and Class Members;
2 and

3 f. Whether Plaintiff and the proposed Class Members are entitled to an
4 award of reasonable attorneys' fees, pre-judgment interest and costs of
5 this suit.

6 69. Typicality: Plaintiff is a member of the Class Plaintiff seeks to represent.
7 Plaintiff's claims are typical of the claims of each Class Member in that every member
8 of the Class was susceptible to the same unlawful conduct and purchased the Products
9 advertised at a discount at one or more of Defendants' brick and mortar retail
10 locations. Plaintiff is entitled to relief under the same causes of action as the other
11 Class Members.

12 70. Adequacy: Plaintiff is an adequate Class representative because
13 Plaintiff's interests do not conflict with the interests of the Class Members Plaintiff
14 seeks to represent; the alleged claims are common to all other members of the Class,
15 and Plaintiff has a strong interest in vindicating Plaintiff's rights; Plaintiff has retained
16 counsel competent and experienced in complex class action litigation and Plaintiff
17 intends to vigorously prosecute this action. Plaintiff has no interests which conflict
18 with those of the Class. The Class Members' interests will be fairly and adequately
19 protected by Plaintiff and proposed Class Counsel. Defendants have acted in a manner
20 generally applicable to the Class, making relief appropriate with respect to Plaintiff
21 and the Class Members. The prosecution of separate actions by individual Class
22 Members would create a risk of inconsistent and varying adjudications.

23 71. Predominance and Superiority: The questions of law and fact common to
24 the Class, including but not limited to those set forth above, will predominate over
25 any questions affecting individual class members making class treatment an efficient
26 way to resolve the common questions for all Class Members in a single adjudication.
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1 The Class is properly brought and should be maintained as a class action because a
2 class action is superior to traditional litigation of this controversy. A class action is
3 superior to the other available methods for the fair and efficient adjudication of this
4 controversy because:

- 5 a. The joinder of hundreds of individual Class Members is impracticable,
6 cumbersome, unduly burdensome, and a waste of judicial and/or litigation
7 resources;
- 8 b. The individual claims of the Class Members may be relatively modest
9 compared with the expense of litigating the claim, thereby making it
10 impracticable, unduly burdensome, and expensive to justify individual
11 actions;
- 12 c. When Defendants' liability has been adjudicated, all Class Members'
13 claims can be determined by the Court and administered efficiently in a
14 manner far less burdensome and expensive than if it were attempted
15 through filing, discovery, and trial of all individual cases;
- 16 d. This class action will promote orderly, efficient, expeditious, and
17 appropriate adjudication and administration of Class claims;
- 18 e. Plaintiff knows of no difficulty to be encountered in the management of
19 this action that would preclude its maintenance as a class action;
- 20 f. This class action will assure uniformity of decisions among Class
21 Members;
- 22 g. The Class is readily definable and prosecution of this action as a class
23 action will eliminate the possibility of repetitious litigation; and
- 24 h. Class Members' interests in individually controlling the prosecution of
25 separate actions is outweighed by their interest in efficient resolution by
26 single class action;

1 72. In the alternative, the Class also may be certified because Defendants
2 have acted or refused to act on grounds generally applicable to the Class thereby
3 making final declaratory with respect to the members of the Class as a whole,
4 appropriate.

5 73. Plaintiff seeks equitable relief on behalf of the Class, on grounds
6 generally applicable to the Class, to require Defendants to provide full restitution to
7 Plaintiff and Class members.

8 74. Unless the Class is certified, Defendants will retain monies that were
9 taken from Plaintiff and Class members as a result of Defendants' wrongful conduct.

10
11 **FIRST CAUSE OF ACTION**
12 **Violation of California's Consumers Legal Remedies Act**
13 **(On behalf of Plaintiff and Class Members Against Defendants)**

14 75. Plaintiff re-alleges and incorporates by reference all allegations set forth
15 in the preceding paragraphs as if fully set forth herein.

16 76. Plaintiff brings this cause of action on behalf of Plaintiff and Class
17 Members.

18 77. Plaintiff and Class Members are "consumers," as the term is defined by
19 California Civil Code § 1761(d).

20 78. Plaintiff and Class Members have engaged in "transactions" with
21 Defendants as that term is defined by California Code Civil Procedure § 1761(e).

22 79. The conduct alleged in this Complaint constitutes unfair methods of
23 competition and unfair and deceptive acts and practices for the purpose of the CLRA,
24 and the conduct was undertaken by Defendants in transactions intended to result in,
25 and which did result in the sale of goods to consumers.

26 80. As alleged fully above, Defendants made and disseminated untrue and
27 misleading statements of facts in their advertisements to Class Members. Defendants
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1 did this by advertising limited-time offers that were not limited in time, using fake
2 regular prices, and advertising fake discounts.

3 81. Defendants violated, and continue to violate, §1770(a)(13) of the
4 California Civil Code by making false or misleading statements of fact concerning
5 reasons for existence of, or amount of, price reductions on its in-store displays.
6 Defendants have violated § 1770(a)(13) by (1) misrepresenting the regular price of
7 products in its stores, (2) advertising discounts and savings that are exaggerated or
8 nonexistent, (3) misrepresenting that the discounts and savings in its stores are
9 available only for a limited time, when in fact they are not, and (4) regularly available.

10 82. Defendants violated, and continue to violate, § 1770(a)(5) of the
11 California Civil Code by representing that products offered for sale in its stores have
12 characteristics or benefits that they do not have. Defendants represent that the value
13 of their Products is greater than it actually is by advertising inflated regular prices and
14 fake discounts for products.

15 83. Defendants violated, and continue to violate, § 1770(a)(9) of the
16 California Civil Code. Defendants violated this by advertising its products as being
17 offered at a discount, when in fact Defendants do not intend to see the products at a
18 discount.

19 84. Defendants' representations were likely to deceive, and did deceive,
20 Plaintiff and other Class Members. Defendants knew, or should have known through
21 exercise of reasonable care, that these statements were inaccurate and misleading.

22 85. Defendants' misrepresentations were intended to induce reliance, and
23 Plaintiff saw, read and reasonably relied on them when purchasing Defendants'
24 Products. Defendants' misrepresentations were a substantial factor in Plaintiff's
25 purchase decision.

1 86. In addition, class-wide reliance can be inferred because Defendants’
2 misrepresentations were material, i.e., reasonable consumers would consider them
3 important in deciding whether to buy Defendants’ Products.

4 87. Defendants’ misrepresentations were substantial factor and proximate
5 cause in causing damages and losses to Plaintiff sand Class Members.

6 88. Plaintiff and Class members were injured as a direct and proximate result
7 of Defendants’ conduct because (a) they would not have purchased Defendants’
8 Products if they had known that the discounts, regular prices, and/or the limited-time
9 offers were not real, and/or (b) they would have paid less for the Products.

10 89. Pursuant to California Civil Code § 1782 of the CLRA, on October 16,
11 2025, Plaintiffs notified Defendants in writing by certified mail of the particular
12 violations of § 1770 of the CLRA and demanded that Defendants rectify the problems
13 associated with the acts and practices described above. A copy of the letter is attached
14 as **EXHIBIT 1**. Defendants have failed to rectify the problems associated with the
15 actions detailed above.

16 90. Accordingly, pursuant to California Civil Code § 1780(a)(1)(3)(4) and
17 (5), Plaintiff, on behalf of Plaintiff and all other Class Members, seeks actual
18 damages, restitution, punitive damages, and any other relief that the Court deems
19 proper.

20 **SECOND CAUSE OF ACTION**

21 **Violation of California Unfair Competition Law (“UCL”)**
22 **Cal. Bus. & Prof. Code § 17200 *et seq.***
23 **(On behalf of Plaintiff and Class Members Against Defendants)**

24 91. Plaintiff re-alleges and incorporates by reference all allegations set forth
25 in the preceding paragraphs as if fully set forth herein.
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1 92. Defendants have violated California’s Unfair Competition Law (UCL) by
2 engaging in unlawful, fraudulent, and unfair conduct (i.e., violating each of the three
3 prongs of the UCL).

4 ***The Unlawful Prong***

5 93. Defendants have violated the UCL’s “unlawful prong” as a result of its
6 violations of the CLRA, as set forth above, California’s False Advertising Law, and
7 the Federal Trade Commission Act (“FTCA”), as alleged herein.

8 94. The California False Advertising Law, codified at California Business &
9 Professions Code section 17500, et seq. (the “FAL”) provides that it is unlawful for
10 any business, with intent directly or indirectly to dispose of personal property, to
11 make or disseminate in any “manner or means whatever, including over the Internet,
12 any statement, concerning that . . . personal property . . . which is untrue or
13 misleading, and which is known, or which by the exercise of reasonable care should
14 be known, to be untrue or misleading[.]” Cal. Bus. & Prof. Code § 17500. The
15 “intent” required by section 17500 is the intent to dispose of property, and not the
16 intent to mislead the public in the disposition of such property.

17 95. Cal Bus. & Prof. Code § 17501, provides:

18
19 For the purpose of this article the worth or value of any thing advertised
20 is the prevailing market price², wholesale if the offer is at wholesale,
21 retail if the offer is at retail, at the time of publication of such
22 advertisement in the locality wherein the advertisement is published.
23
24
25
26

27 ² The term “prevailing market price” refers to the retail [price] if the offer is at retail.
28 Cal. Bus. & Prof. Code § 17501.

1 No price shall be advertised as a former price of any advertised thing,³
2 unless the alleged former price was the prevailing market price as above
3 defined within three months next immediately preceding the
4 publication of the advertisement or unless the date when the alleged
5 former price did prevail is clearly, exactly and conspicuously stated in
6 the advertisement.

7
8 96. The Federal Trade Commission Act (“FTCA”) prohibits the pricing
9 scheme employed by Defendant, stating: “[i]f the former price is set forth in the
10 advertisement, whether accompanied or not by descriptive terminology such as
11 “Regularly,” “Usually,” “Formerly,” etc., the advertiser should make certain that the
12 former price is not a fictitious one.” 16 C.F.R. § 233.1 (a).

13 97. The FTCA also prohibits “unfair or deceptive acts or practices in or
14 affecting commerce[.]” 15 U.S.C. § 45(a)(1).

15 98. Pursuant to 16 C.F.R. § 233.1, entitled “Former Price Comparisons”:

16
17 (a) One of the most commonly used forms of bargain advertising is to
18 offer a reduction from the advertiser’s own former price for an article.
19 If the *former price* is the actual, bona fide price at which the article was
20 offered to the public on a *regular basis* for a *reasonably substantial*
21 *period of time*, it provides a price is genuine, the bargain being
22 advertised is a true one. If, on the other hand, the former price being
23 advertised is not bona fide but fictitious – for example, where an
24 *artificial, inflated price* was established for the purpose of enabling the

25
26 ³ The term “advertised thing” refers to the exact same product offered and not an equivalent or
27 similar product. *See People v. Superior Ct. (J.C. Penney Corp.)*, 34 Cal. App. 5th 376, 412 (2019)
28 (“if the advertisement specifies a precise item—say, by reference to name, brand, or other
distinctive features . . . the market and therefore the market price is potentially determined on the
basis of sales of that item only.”)

1 subsequent offer of a large reduction – the “bargain” being advertised
2 is a false one; the purchaser is not receiving the unusual value he
3 expects.

4
5 (b) A former price is not necessarily fictitious merely because no sales
6 at the advertised price were made. The advertiser should be especially
7 careful, however, in such a case, that the price is one at which the
8 product was openly and actively offered for sale, for a *reasonably*
9 *substantial period of time*, in the *recent*, regular course of her business,
10 honestly and in good faith – and, of course, not for the purpose of
11 establishing a fictitious higher price on which a deceptive comparison
12 might be based.

13 99. The FTCA also prohibits retailers from offering fake limited duration
14 sales, stating: “[Retailers] should not offer an advance sale under circumstances
15 where they do not in good faith expect to increase the price at a later date, or make a
16 ‘limited’ offer which, in fact, is not limited. 16 C.F.R. § 233.5.

17 100. Through its conduct as alleged herein, Defendants have violated and
18 continues to violate § 1770(a)(5), (9), and (13) of the California Civil Code, §§
19 17500 and 17501 of the California Business & Professions Code, and the FTCA.

20 ***The Deceptive Prong***

21 101. As alleged in detail above, Defendants’ representations that their Products
22 were on sale, that the sale was limited in time, that the Products had a specific regular
23 price, and that the customers were receiving discounts were false and misleading.

24 102. Defendants’ representations were misleading to Plaintiff and other
25 reasonable consumers.

1 103. Plaintiff relied on Defendants’ misleading representations and omissions,
2 as detailed above.

3 ***The Unfair Prong***

4 104. As alleged in detail above, Defendants committed “unfair” acts by falsely
5 advertising that their Products were on sale, that the sale was limited in time, that the
6 products had a specific regular price, and that the customers were receiving discounts.

7 105. Defendants violated established public policy by violating the CLRA, as
8 alleged above and incorporated here. The unfairness of this practice is tethered to a
9 legislatively declared policy (that of the CLRA).

10 106. The harm to Plaintiff and Class Members greatly outweighs the public
11 utility of Defendants’ conducts. There is no public utility to misrepresenting the price
12 of a consumer product. This injury was not outweighed by any countervailing benefits
13 to consumers or competition. Misleading consumer products only injure healthy
14 competition and harm consumers.

15 107. Plaintiff and the Class Members could not have reasonably avoided this
16 injury.

17 108. As alleged above, Defendants’ representations were deceptive to
18 reasonable consumers, like Plaintiff.

19 109. Defendants’ conduct, as alleged above, was immoral, unethical,
20 oppressive, unscrupulous, and substantially injurious to consumers.

21 110. For all prongs, Defendants’ misrepresentations were intended to induce
22 reliance, and Plaintiff saw, read, and reasonably relied on them when purchasing
23 Defendants Products. Defendants’ representations were a substantial factor in
24 Plaintiff’s purchase decision.

1 111. In addition, class-wide reliance can be inferred because Defendants'
2 representations were material, i.e., a reasonable consumer would consider them
3 important in deciding whether to buy Defendants' Products.

4 112. Defendants' representations were a substantial factor and proximate
5 cause in causing damages and losses to Plaintiff and Class Members.

6 113. Plaintiff and Class Members were injured as a direct and proximate result
7 of Defendants' conduct because (a) they would not have purchased the Products if
8 they had known that they were not discounted, and/or (b) they overpaid for
9 Defendants' Products because the Products are sold at the regular price and not at a
10 discount.

11 **JURY DEMAND**

12 114. Plaintiff demands a trial by jury on all issues so triable.

13 **REQUEST FOR RELIEF**

14 Plaintiff, individually and on behalf of the Class, requests for judgment as
15 follows:

16 (a) Declaring this action to be a proper class action and certifying Plaintiff as
17 the representative of the Class, and Plaintiff's attorneys as Class Counsel to represent
18 the Class and Class Members;

19 (b) An order declaring that Defendants' conduct violates the statutes
20 referenced herein;

21 (c) Awarding actual damages, restitution, and punitive damages as may be
22 recoverable pursuant to Cal. Civ. Code § 1780 (a

23 (d) Awarding Plaintiff and Class Members restitution and disgorgement
24 where permitted;

25 (d) For both pre- and post-judgment interest on any amounts awarded;

1 (e) Awarding Plaintiff and the Class Members their costs and expenses
2 incurred in this action, including reasonable allowance of fees for Plaintiff's attorneys
3 and experts, and reimbursement of Plaintiff's expenses and cost of suits; and

4 (f) Granting such other and further relief as the Court may deem just and proper.
5

6 Dated: February 13, 2026

CROSNER LEGAL, P.C.

7 By: /s/ Brandon Brouillette
8 Brandon Brouillette
Zachary M. Crosner

9 Attorneys for Plaintiff CARMIN
10 WONG

11
12 **AFFIDAVIT PURSUANT TO CALIFORNIA CIVIL CODE § 1780(D)**

13 I declare as follows: I am an attorney duly licensed to practice before all of the
14 courts of the State of California. I am an attorney at the law firm of Crosner Legal,
15 P.C., one of the counsel of record for plaintiff in the above-entitled action. Defendants
16 have done, and are doing, business in California, including in this County. Such
17 business includes the marketing, promotion, distribution, and sale of its product at
18 issue.

19 I declare under penalty of perjury under the laws of the State of California that
20 the foregoing is true and correct. Executed February 13, 2026, at Los Angeles,
21 California.
22

23 **CROSNER LEGAL, P.C.**

24 By: /s/ Brandon Brouillette
25 Brandon Brouillette
26
27
28