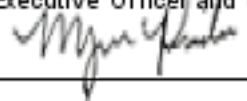


ELECTRONICALLY FILED
Superior Court of California
County of Ventura

12/02/2025

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Executive Officer and Clerk

By:  Deputy Clerk

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10
11 SUPERIOR COURT OF THE STATE OF CALIFORNIA
12 COUNTY OF VENTURA

14 NINA HARRIS, individually and on behalf of all
15 similarly situated persons,

16 Plaintiff,

17 v.

18 FANROCK, LLC d/b/a MINT & LILY, a
19 Delaware limited liability company,

20 Defendant.

Case No. 2025CUNP054837

CLASS ACTION COMPLAINT

JURY TRIAL DEMANDED

Ventura Superior Court transmitted through eFiling 12/02/2025 03:44:33 PM

1 Plaintiff Nina Harris (“Plaintiff”) brings this class action complaint individually and on behalf of
2 all others similarly situated against Fanrock, LLC d/b/a Mint & Lily (“Defendant” or “Mint & Lily”).
3 The allegations contained in this class action complaint are based on Plaintiff’s personal knowledge of
4 facts pertaining to herself and upon information and belief, including further investigation conducted by
5 Plaintiff’s counsel, as to the remainder.

6 **I. NATURE OF THE ACTION**

7 1. Defendant has violated California’s “prohibition on advertising non-existent sales.”
8 *Hinojos v. Kohl’s Corp.*, 718 F.3d 1098, 1106 (9th Cir. 2013). “[P]rice advertisements matter.” *Id.*

9 2. This is a class action lawsuit brought to address Defendant’s misleading and unlawful
10 pricing, sales, and discounting practices on its website www.MintAndLily.com. The products at issue are
11 all goods that have at any time been offered on the website at a sale or discounted price from a higher
12 advertised “reference price”—namely, Mint & Lily’s in-house brand jewelry. Defendant advertises its
13 products with false, misleading, and inflated comparison reference prices to deceive customers into
14 believing the sale price is a genuine, discounted, bargain price.

15 3. Anyone visiting the website who buys an item at an advertised discount from a higher
16 comparison reference price in strikethrough text is misled. This is because that item has not been listed
17 for sale or sold *on the website*, in the recent past and for a substantial time, at the former price. Yet
18 Defendant’s use of inflated reference prices, strikethrough pricing and discounting, and purported limited
19 time sales all lead reasonable consumers to believe that the products in fact had been listed for sale and
20 sold on the website, at the former and regular price, in the recent past, for a substantial time.

21 4. Additionally, and alternatively, consumers are misled because the advertised reference
22 price is not the market price. Indeed, because the products are regularly available on the website at
23 discounted prices, the prevailing market price cannot be the higher price.

24 5. On information and belief, all or nearly all the reference prices on the website are false
25 and misleading. They are not former or regular prices at which the products were offered on the website
26 in the recent past for a substantial time. And they are not prevailing market prices. They are inflated
27 prices posted to lure consumers into purchasing items from Defendant.
28

1 6. Beyond that, Defendant’s products sold on the website not only have a market value lower
2 than the promised former and regular price, but the market value is also lower than the discounted “sale”
3 price. By using false reference pricing, Defendant artificially drives up demand for the products, and by
4 extension drives up the price of the products. As a result, consumers received a product worth less than
5 the price paid. To illustrate, assume a company knows a product will sell in the marketplace at \$30. But
6 to increase revenue and capture market share, the company advertises the product as having a regular
7 price of \$100 and being on “sale” at 60% off (i.e., \$60 off). Because consumers value products based on
8 the regular price, and a purported limited-time sale conveys savings, the company can sell that \$30
9 product for \$40.

10 7. As a result, consumers are deceived into spending money they otherwise would not have
11 spent, purchasing items they would not have purchased, and/or spending more money for an item than
12 they otherwise would have absent deceptive marketing.

13 **II. PARTIES**

14 8. Plaintiff Nina Harris is a resident of the State of California and County of Ventura. She
15 also resided in Ventura County at the time she made her purchases from the website.

16 9. Defendant Fanrock, LLC is the corporate owner and operator of Mint & Lily, a jewelry
17 brand and e-commerce retailer. On information and belief, Defendant is a Delaware limited liability
18 company whose members are all citizens of Delaware, California, and/or Texas. According to the
19 Fanrock, LLC website, Defendant’s headquarters are at 845 Market St., San Francisco, California.¹
20 Through the website, Defendant sells its products to consumers in California.

21 **III. JURISDICTION AND VENUE**

22 10. This is a class action lawsuit brought pursuant to Code of Civil Procedure § 382, and this
23 Court has jurisdiction over Plaintiff’s claims because the amount in controversy exceeds this Court’s
24 jurisdictional minimum.

25 11. Venue is proper under Code of Civil Procedure §§ 395(b) and 395.5 because a substantial
26 part of the events giving rise to the claims herein occurred in this district and Plaintiff was injured in this

27 _____
28 ¹ <https://www.fanrock.com> (last accessed December 2, 2025).

1 district. Defendant marketed, sold, and shipped products to consumers located in this district, including
2 Plaintiff. Additionally, Plaintiff is a resident of Ventura County.

3 12. Further, as set forth herein, Defendant has contacts in this district sufficient to subject it
4 to the personal jurisdiction of this district as if this district were a separate state. Defendant continuously
5 and systematically places goods into the stream of commerce for distribution in California, maintains an
6 interactive commercial website, offers to ship products to California, and allows customers in California
7 to order products. Exercising jurisdiction over Defendant is fair, just, and reasonable considering the
8 quality and nature of Defendant's acts that occur in California and which affect interests located in
9 California. Defendant has purposefully availed itself of the privilege of conducting activities in California
10 and should reasonably anticipate being haled into court in California.

11 **IV. GENERAL ALLEGATIONS**

12 **A. Company Background**

13 13. Defendant owns a portfolio of companies, one of which is Mint & Lily.

14 14. Mint & Lily is a jewelry brand and direct-to-consumer retailer of the jewelry products.

15 15. The products are primarily sold direct-to-consumer by Defendant via the Mint & Lily
16 website. According to a November 6, 2025 interview of Mint & Lily's CEO Arjun Ohri, Mint & Lily
17 was "started in 2019" and operated as a "direct-to-consumer" product until 2025 when it expanded to
18 selling through select retailers.² Thus, between 2019 and 2024, the products were sold exclusively direct-
19 to-consumer by Mint & Lily. And as of 2025, the vast majority of products by sales volume continue to
20 be sold direct-to-consumer by Mint & Lily.

21 16. Defendant highlights the unique and premium nature of its jewelry products. According
22 to the Mint & Lily website, "We work hard to bring you the newest styles, finest materials and the pieces
23 that will transform how you look at feel about yourself."³

24
25
26 ² [https://www.mirakl.com/blog/seller-spotlight-how-mint-and-lily-is-redefining-personalized-](https://www.mirakl.com/blog/seller-spotlight-how-mint-and-lily-is-redefining-personalized-jewelry)
27 [jewelry](https://www.mirakl.com/blog/seller-spotlight-how-mint-and-lily-is-redefining-personalized-jewelry) (last accessed December 2, 2025).

28 ³ <https://mintandlily.com/pages/about-us> (last accessed December 2, 2025).

1 17. The website further states: “We design and source everything ethically. We cut out the
2 ridiculous middlepeople [sic] and greedy markups to deliver you the best price. And we still deliver you
3 beautiful, quality fashionable everyday jewelry. . . . You will not find more meaningful jewelry anywhere
4 else. Whether personalized just for you. Or curated specifically for that look you’ve been dying to
5 complete. Everything has meaning and is designed to let you do you.”⁴

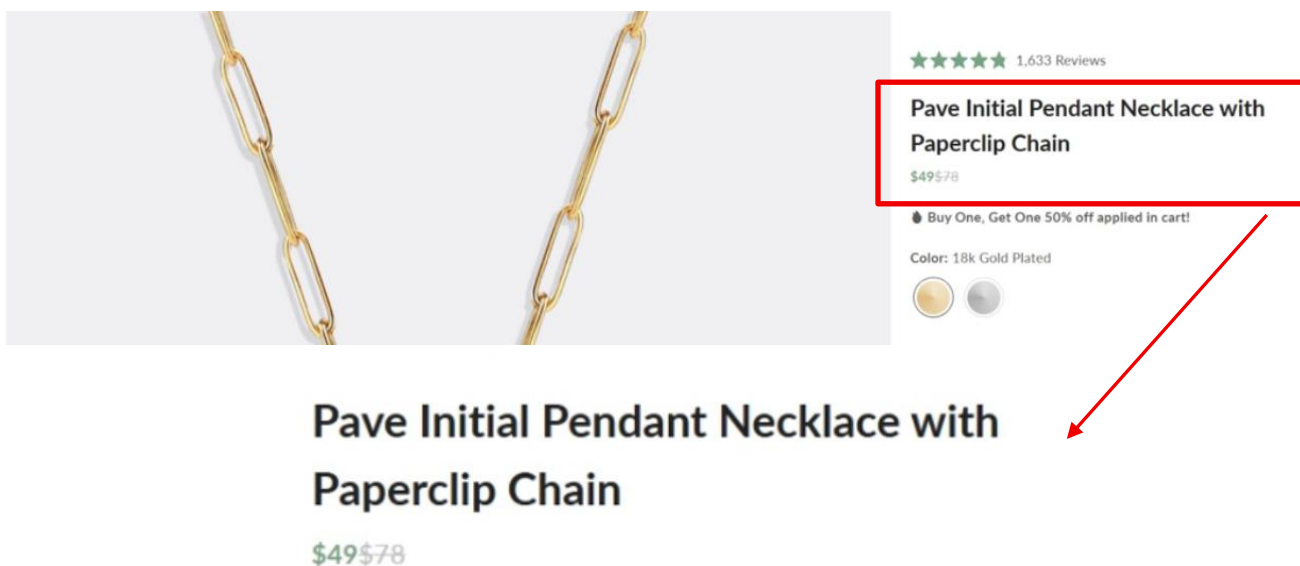
6 18. Defendant, through its website, has sold millions of units of merchandise to consumers in
7 California and elsewhere.

8 **B. Defendant’s Deceptive Pricing Scheme**

9 **1. The Products Are Not Regularly Listed or Sold on the Website at the**
10 **Reference Prices**

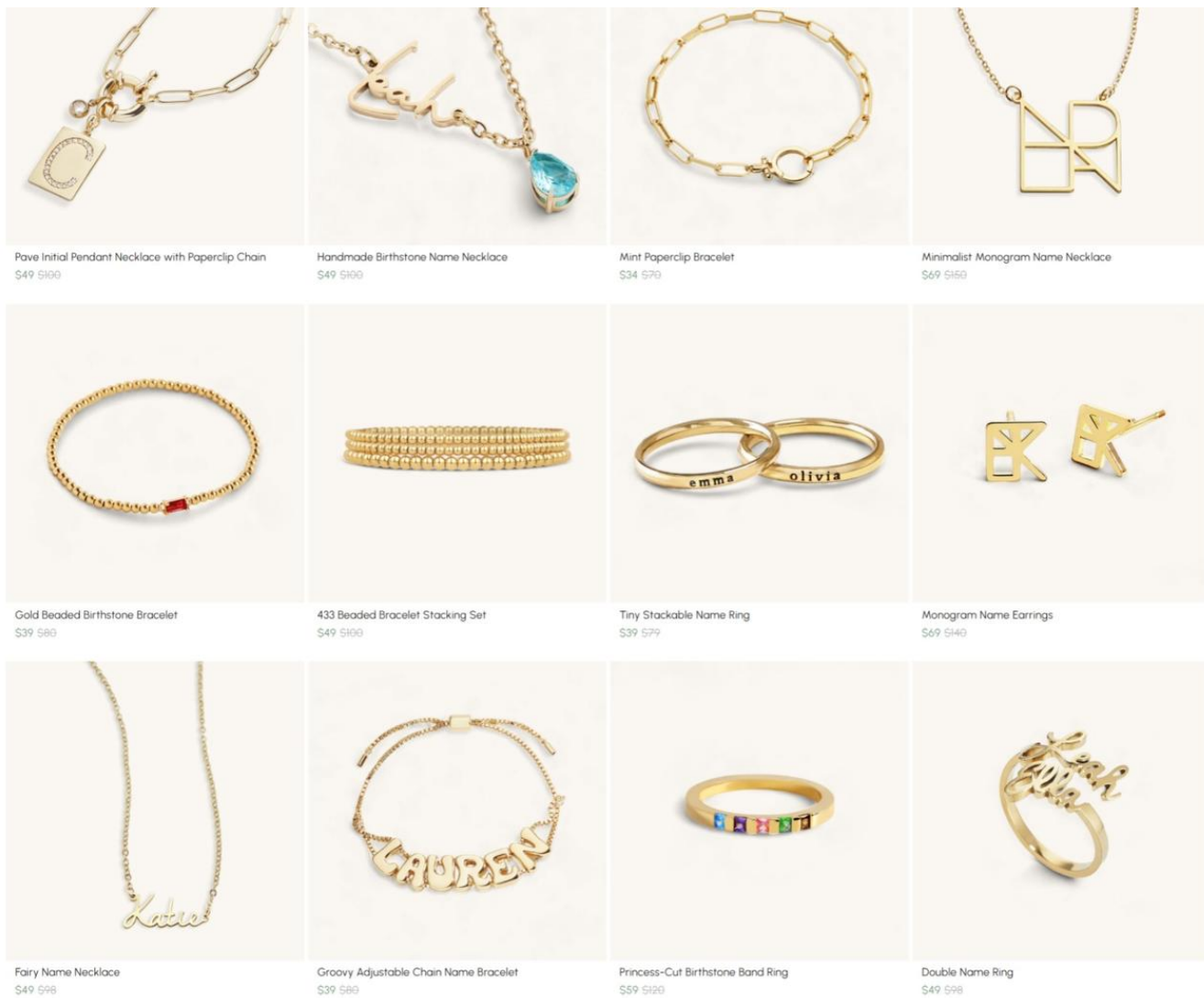
11 19. Defendant’s business model relies on deceptive reference prices and sale prices.

12 20. On any given date, most if not all products on the website are represented as being
13 discounted from a substantially higher reference price. On individual listing pages or category listing
14 pages, the supposed markdowns are represented to the consumer by prominently displaying a “crossed-
15 out” reference price next to the sale price. Representative examples are depicted below.



22
23
24
25
26
27
Exemplar product page dated May 23, 2024

28
⁴ *Id.*



Excerpt of Best Sellers category page dated December 5, 2024

21. To confirm that Defendant regularly offers products at a discount sitewide or nearly sitewide, 11 screenshots of the “Best Sellers” category page, randomly selected and collected by the Internet Archive’s Wayback Machine, were reviewed covering September 2020 to December 2024. On 100% of these days, all products were advertised with a higher price in strikethrough text and an adjacent discounted price. Additionally, 10 randomly selected screenshots of the MintAndLily.com homepage archived by the Wayback Machine were reviewed covering January 2024 to December 2024. On 100%

1 of these days, too, all products advertised on the homepage were shown with a higher price in
2 strikethrough text and an adjacent discounted price.

3 22. There are also many examples of individual product pages confirming this deceptive
4 advertising practice. For instance:

5 a. Tiny Stackable Name Ring, 18k Gold Plated

6 i. 05/23/2024: \$79 (reference price); \$39 (discount price)

7 ii. 10/29/2025: \$79 (reference price); \$39 (discount price)

8 iii. 12/01/2025: \$60 (reference price); \$29 (discount price)

9 b. Pave Initial Pendant Necklace with Paperclip Chain, 18k Gold Plated, 18”

10 i. 05/23/2024: \$78 (reference price); \$49 (discount price)

11 ii. 09/12/2024: \$78 (reference price); \$49 (discount price)

12 iii. 10/29/2025: \$100 (reference price); \$49 (discount price)

13 iv. 12/01/2025: \$100 (reference price); \$49 (discount price)

14 c. Bubble Name Necklace, 18k Gold Over Sterling Silver, 16”

15 i. 12/02/2024: \$120 (reference price); \$59 (discount price)

16 ii. 08/03/2025: \$120 (reference price); \$59 (discount price)

17 iii. 12/01/2025: \$120 (reference price); \$59 (discount price)

18 23. This is not a new or isolated sales practice by Defendant, but continued regularly
19 throughout 2025, 2024, 2023, 2022, and likely years earlier.

20 24. Defendant employs these advertising practices to convey that the product was listed or
21 sold on the website at the reference price in the recent past and for a substantial period of time, but is
22 now being sold to the customer at a genuine discount.

23 25. In other words, reasonable consumers understand the strikethrough reference price and
24 sale price to convey that the product was listed or sold *on the website* at the reference price, in the recent
25 past and for a substantial period of time, but is now being offered to the customer at a substantial discount.
26 Reasonable consumers also expect the product is valued in the market at the former or regular price, such
27 that consumers are receiving a genuine bargain.

1 26. However, this reference price is a falsely inflated price because Defendant rarely, if ever,
2 lists or sells items at the reference price. As a result, Defendant falsely conveys to customers that they
3 are receiving a substantial markdown or discount.

4 **2. The Reference Price is not the Market Price, Including During the Rolling**
5 **90-Day Period Prior to Offering**

6 27. Separately, the reference prices advertised on the website are not the prevailing market
7 prices of the products.

8 28. On information and belief, Defendant’s products were exclusively sold by Defendant
9 direct-to-consumer for the vast majority of the Class Period. According to a November 6, 2025 interview
10 of Mint & Lily’s CEO Arjun Ohri, Mint & Lily was “started in 2019” and operated as a “direct-to-
11 consumer” product until 2025 when it expanded to selling through select retailers.⁵

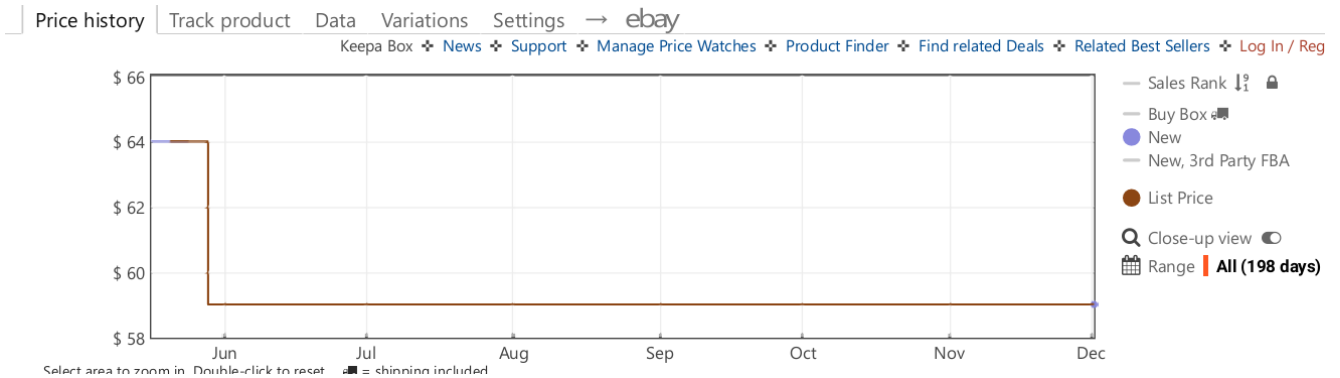
12 29. For the products sold exclusively through the Mint & Lily website (i.e., direct-to-
13 consumer by Mint & Lily), the prevailing market price is necessarily the discounted price because Mint
14 & Lily is the only seller.

15 30. Some of Defendant’s discounted products are concurrently sold on the website and
16 through other online retailers. For these products, on information and belief, Defendant’s advertised
17 reference prices are higher than the prevailing market prices for the identical products. Because
18 Defendant consistently sells the products at prices significantly (i.e., 30% or more) lower than its
19 advertised former prices, there is no reasonable basis to believe that Defendant consistently sells its
20 products at prices below the prevailing market prices. Economic principles dictate that in competitive
21 markets the actual prices offered by vendors selling the same item tend to converge on the market price.

22 31. For example, on December 1, 2025, the Mother of Pearl Heart Initial Necklace 16” was
23 advertised on Defendant’s website with a \$140 reference price in strikethrough text and a \$69 discount
24 price. That same day, however, the product was offered on Amazon.com (\$59 with no advertised
25 reference price), Goody.com (\$69 with no advertised reference price), and Nordstrom.com (\$69
26

27 ⁵ [https://www.mirakl.com/blog/seller-spotlight-how-mint-and-lily-is-redefining-personalized-](https://www.mirakl.com/blog/seller-spotlight-how-mint-and-lily-is-redefining-personalized-jewelry)
28 [jewelry](https://www.mirakl.com/blog/seller-spotlight-how-mint-and-lily-is-redefining-personalized-jewelry) (last accessed December 2, 2025).

1 discounted from a \$140 advertised reference price). Moreover, according to a third-party price tracker of
 2 Amazon.com, the product was consistently available on Amazon for \$59 to \$64 throughout June 2025 to
 3 December 2025 (see image below). So, the product was consistently available at prices far below the
 4 \$140 reference price advertised on Defendant's website.



11 32. Furthermore, regardless of third-party retailer prices, on information and belief Mint &
 12 Lily products are most commonly sold through Defendant's website. If a consumer searches Google for
 13 "Mint & Lily," the first organic hit is MintAndLily.com, the first sponsored hit is MintAndLily.com, and
 14 the first nine sponsored products are articles of jewelry via MintAndLily.com.

15 33. On information and belief, Defendant's advertised reference prices are unsubstantiated
 16 and based on an undisclosed formula, or are outdated, or are cherrypicked and thus not representative of
 17 the prevailing market prices. Defendant does not independently verify that the reference prices are the
 18 prevailing market prices at which the products are listed for sale by Defendant (or other retailers) for a
 19 substantial period of time and in substantial quantities. And Defendant does not update the references
 20 prices on a daily basis.

21 C. Plaintiff's Purchases from the Website

22 *Plaintiff Nina Harris*

23 34. On September 22, 2024 and October 5, 2024, Plaintiff Harris purchased several items of
 24 jewelry from www.MintAndLily.com. Specifically, she purchased a (1) Gold Beaded Birthstone
 25 Bracelet, (2) Don't Let The Hard Days Win Beaded Inspire Bracelet, (3) Stella Dainty Multiple Name
 26 Bracelet, and (4) Don't Let The Hard Days Win Tube Bracelet.

27 35. Based on and consistent with the current website and screenshots above, Plaintiff Harris
 28

1 saw the following representations on the product listing pages:

- 2 a. Gold Beaded Birthstone Bracelet – regular price of \$80 in strikethrough text and adjacent
3 sale price of \$39
- 4 b. Don't Let The Hard Days Win Beaded Inspire Bracelet – regular price of \$60 in
5 strikethrough text and an adjacent sale price of \$29
- 6 c. Stella Dainty Multiple Name Bracelet – regular price of \$120 in strikethrough text and
7 adjacent sale price of \$49
- 8 d. Don't Let The Hard Days Win Tube Bracelet – regular price of \$70 in strikethrough text
9 and adjacent sale price of \$34

10 36. Her September 22, 2024 purchase totaled \$94.12 after accounting for taxes and a \$29.25
11 discount code. Her October 5, 2024 purchase totaled \$24.03 after accounting for shipping, taxes, and a
12 \$20 discount code.

13 37. She proceeded to purchase the products with the understanding that she was receiving all
14 advertised discounts off the former and regular prices charged by Defendant on the website and the
15 products' market price.

16 38. Plaintiff Harris thus viewed and relied on the website's purported current and temporary
17 discounts. She relied on the above representations that the products (1) had a former and regular price of
18 the stated reference price, (2) had been offered for sale *on the website* at the stated reference price in the
19 recent past, on a regular basis, and for a substantial time, and (3) were truly being sold at a substantial
20 discount, such that the products were valued at the false reference price.

21 39. The above-listed products Plaintiff Harris purchased were not substantially marked down,
22 and any discount had been exaggerated, as shown above.

23 40. For at least the 90-day period prior to Plaintiff Harris's purchases, and months and years
24 more, Defendant rarely, if ever, offered any of the discounted items sold on its website at the reference
25 prices.

1 41. Plaintiff would not have purchased the items at the advertised price, or would not have
2 paid as much as she did, had Defendant been truthful. Plaintiff was persuaded to make her purchases
3 because of the misleading discounts based on false reference prices.

4 42. Plaintiff continues to be interested in purchasing jewelry offered by Defendant at
5 significantly discounted prices, but she will be unable to trust and rely on Defendant's advertising, and
6 so will not purchase the products from Defendant. Absent injunctive relief, Plaintiff cannot know whether
7 Defendant's advertised reference prices represent honest prices at which the products were listed for sale
8 on the website, on a regular basis for a reasonably substantial period of time, or if Defendant's sales are
9 perpetual.

10 **D. Research Shows That Reference Price Advertising Influences Consumer Behavior**
11 **and Perceptions of Value**

12 43. Academic studies support the effectiveness of Defendant's deceptive pricing scheme.

13 44. "By creating an impression of savings, the presence of a higher reference price enhances
14 subjects' perceived value and willingness to buy the product."⁶ Thus, "empirical studies indicate that, *as*
15 *discount size increases, consumers' perceptions of value and their willingness to buy the product*
16 *increase, while their intention to search for a lower price decreases.*"⁷ Indeed, the Ninth Circuit observed
17 that "[m]isinformation about a product's 'normal' price is . . . significant to many consumers in the same
18 way as a false product label would be." *Hinojos*, 718 F.3d at 1106.

19 45. "[D]ecades of research support the conclusion that advertised reference prices do indeed
20 enhance consumers' perceptions of the value of the deal."⁸ According to academic studies, "[c]onsumers
21 are influenced by comparison prices even when the stated reference prices are implausibly high."⁹

22
23
24 ⁶ Dhruv Grewal & Larry D. Compeau, *Comparative Price Advertising: Informative or Deceptive?*, 11 J. Pub. Pol'y & Mktg. 52, 55 (Spring 1992).

25 ⁷ *Id.* at 56 (emphasis added).

26 ⁸ Dhruv Grewal & Larry D. Compeau, *Comparative Price Advertising: Believe It Or Not*, J. of
27 Consumer Affairs, Vol. 36, No. 2, at 287 (Winter 2002).

28 ⁹ *Id.*

1 46. Another academic journal explains that “[r]eference price ads strongly influence
2 consumer perceptions of value Consumers often make purchases not based on price but because a
3 retailer assures them that a deal is a good bargain.”¹⁰

4 47. “[R]esearch has shown that retailer-supplied reference prices clearly enhance buyers’
5 perceptions of value” and “have a significant impact on consumer purchasing decisions.”¹¹

6 48. “[R]eference prices are important cues consumers use when making the decision
7 concerning how much they are willing to pay for the product.”¹² This study also concluded that
8 “consumers are likely to be misled into a willingness to pay a higher price for a product simply because
9 the product has a higher reference price.”¹³

10 49. One study quantified this economy injury, concluding that “fake list prices have a strong
11 influence on purchase outcomes, with a *1-dollar increase in the list price having the same positive effect*
12 *on purchase likelihood as a 77-cent decrease in the actual selling price.*”¹⁴

13 50. Accordingly, research confirms that deceptive advertising through false reference pricing
14 is intended to, and does, influence consumer behavior by artificially inflating consumer perceptions of
15 an item’s value and causing consumers to spend money they otherwise would not have, purchase items
16 they otherwise would not have, and/or purchase products from a specific retailer.

17 **E. Consumers Suffered Economic Harm**

18 51. Defendant’s discounted products sold on the website have a market value lower than the
19 promised “regular” price, and as a result, consumers were harmed. As explained above, the reference

21 ¹⁰ Joan Lindsey-Mullikin & Ross D. Petty, *Marketing Tactics Discouraging Price Search: Deception and Competition*, 64 J. of Bus. Research 67 (January 2011).

22 ¹¹ Praveen K. Kopalle & Joan Lindsey-Mullikin, *The Impact of External Reference Price On Consumer Price Expectations*, 79 J. of Retailing 225 (2003).

23 ¹² Jerry B. Gotlieb & Cyndy Thomas Fitzgerald, *An Investigation Into the Effects of Advertised Reference Prices On the Price Consumers Are Willing To Pay For the Product*, 6 J. of App’d Bus. Res. 1 (1990).

24 ¹³ *Id.*

25 ¹⁴ Donald Ngwe, *Fake Discounts Drive Real Revenues in Retail*, Harvard Bus. Sch. (Oct. 14, 2017).

1 prices are false and the products rarely, if ever, are offered or sold at the reference prices. Accordingly,
2 Defendant represented that the products had a market value of the higher reference price, but consumers
3 did not receive products valued at that price.

4 52. Consumers also paid a “price premium” for the products. If the reference prices were
5 omitted from product listings, then consumers would not have paid as much as they did for the products
6 (or would not have purchased the products), and Defendant would not have been able to charge the prices
7 it ultimately did.

8 53. By using false reference pricing, Defendant artificially drives up demand for the products,
9 and by extension drives up the price of the products. As a result, consumers received a product worth less
10 than the price paid. Reasonable consumers would not have paid the prices charged had they known that
11 the products were rarely, if ever, offered for sale on the website (or alternatively the marketplace) at the
12 reference prices.

13 54. Again, an example illustrates the point. Assume a company knows a product will sell in
14 the marketplace at \$30. But to increase revenue, the company advertises the product as having a “regular”
15 price of \$100 and being on “sale” at 60% off (i.e., \$60 off). Because consumers value products based on
16 the regular price, and a sale conveys additional savings, the company can sell that \$30 product for \$40.
17 Defendant has done so.

18 **F. Defendant’s Deceptive Pricing Practice Violates Federal Law**

19 55. The Federal Trade Commission Act (“FTCA”) prohibits “unfair or deceptive acts or
20 practices in or affecting commerce[.]” 15 U.S.C. § 45(a)(1). Under FTC regulations, false former pricing
21 schemes like the ones employed by Defendant are deceptive practices that violate the FTCA.

22 56. Pursuant to 16 C.F.R. § 233.1, entitled Former Price Comparisons:

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

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

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

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

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

23 57. The FTCA also prohibits the pricing scheme employed by Defendant regardless of
24 whether the product advertisements and representations use the words “regular,” “original,” or “former”
25 price. Under 16 C.F.R. § 233.1:

26 (e) If the former price is set forth in the advertisement, **whether accompanied or not** by
27 descriptive terminology such as “Regularly,” “Usually,” “Formerly,” etc., the advertiser
28 should make certain that the former price is not a fictitious one. If the former price, or the
amount or percentage of reduction, is not stated in the advertisement, as when the ad merely
states, “Sale,” the advertiser must take care that the amount of reduction is not so
insignificant as to be meaningless. It should be sufficiently large that the consumer, if he
knew what it was, would believe that a genuine bargain or saving was being offered. An
advertiser who claims that an item has been “Reduced to \$9.99,” when the former price
was \$10, is misleading the consumer, who will understand the claim to mean that a much
greater, and not merely nominal, reduction was being offered.

58. The FTCA also prohibits retailers from offering fake limited duration sales. See 16
C.F.R. § 233.5 which provides: “[Retailers] should not . . . make a ‘limited’ offer which, in fact, is not
limited.”

1 **G. Class Action Allegations**

2 59. Plaintiff brings this action on behalf of herself and all persons similarly situated pursuant
3 to Section 382 of the Code of Civil Procedure and seeks certification of the following class:

4 **California Class:**

5 All persons in California who purchased one or more items from www.MintAndLily.com, during
6 the Class Period, at a discount from a higher advertised reference price.

7 60. The California Class is collectively referred to as the “Class.” Excluded from the Class
8 are the Defendant, the officers and directors of the Defendant at all relevant times, members of their
9 immediate families and their legal representatives, heirs, successors or assigns and any entity in which
10 either Defendant has or had a controlling interest. Also excluded from the Class are persons or entities
11 that purchased products from Defendant for purposes of resale.

12 61. The “Class Period” is the time period beginning on the date established by the Court’s
13 determination of any applicable statute of limitations, after consideration of any tolling, discovery,
14 concealment, and accrual issues, and ending on the date a class is certified.¹⁵

15 62. Plaintiff reserves the right to expand, limit, modify, or amend the class definitions stated
16 above, including the addition of one or more subclasses, in connection with a motion for class
17 certification, or at any other time, based upon, among other things, changing circumstances, or new facts
18 obtained during discovery. In particular, Plaintiff reserves the right to propose subclasses based on time
19 period, product exclusivity, and sales channels.

20 63. **Numerosity.** The Class is so numerous that joinder of all members in one action is
21 impracticable. The exact number and identities of the members of the Class is unknown to Plaintiff at
22 this time and can only be ascertained through appropriate discovery, but on information and belief,
23 Plaintiff alleges that there are in excess of 5,000 members of the Class.

24 64. **Typicality.** Plaintiff’s claims are typical of those of other members of the Class, all of
25 whom have suffered similar harm due to Defendant’s course of conduct as described herein.

26 _____
27 ¹⁵ The Class Period begins at minimum 4 years from the date of filing of this action, but based on
28 tolling, may extend beyond that date.

1 65. **Adequacy of Representation.** Plaintiff is an adequate representative of the Class and will
2 fairly and adequately protect the interests of the Class. Plaintiff has retained attorneys who are
3 experienced in the handling of complex litigation and class actions, and Plaintiff and her counsel intend
4 to diligently prosecute this action.

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

- 10 a. Whether, during the Class Period, Defendant advertised false reference prices on products
11 offered on the website.
- 12 b. Whether, during the Class Period, Defendant advertised price discounts from false
13 reference prices on products offered on the website.
- 14 c. Whether the products listed on Defendant’s website during the Class Period were offered
15 at their reference prices for any reasonably substantial period of time prior to being offered
16 at prices that were discounted from their reference prices.
- 17 d. Whether Defendant’s deceptive pricing scheme using false reference prices constitute an
18 “unlawful,” “unfair,” or “fraudulent” business practice in violation of the California
19 Unfair Competition Law, Cal. Bus & Prof. Code § 17200, et seq.
- 20 e. Whether Defendant’s deceptive pricing scheme using false reference prices constitutes
21 false advertising in violation of the California False Advertising Law under Business &
22 Professions Code § 17500, et seq.
- 23 f. Whether Defendant’s use of false reference prices on products offered on their website
24 during the Class Period was material.
- 25 g. Whether Defendant had a duty to conspicuously disclose to customers that the reference
26 prices were false former/regular prices.
- 27 h. Whether the members of the Class are entitled to damages and/or restitution.

1 i. Whether injunctive relief is appropriate and necessary to enjoin Defendant from
2 continuing to engage in false or misleading advertising.

3 j. Whether Defendant's conduct was undertaken with conscious disregard of the rights of
4 the members of the Class and was done with fraud, oppression, and/or malice.

5 67. **Superiority.** A class action is superior to other available methods for the fair and efficient
6 adjudication of this controversy because individual litigation of the claims of all members of the Class is
7 impracticable. Requiring each individual class member to file an individual lawsuit would unreasonably
8 consume the amounts that may be recovered. Even if every member of the Class could afford individual
9 litigation, the adjudication of at least tens of thousands of identical claims would be unduly burdensome
10 to the courts. Individualized litigation would also present the potential for varying, inconsistent, or
11 contradictory judgments and would magnify the delay and expense to all parties and to the court system
12 resulting from multiple trials of the same factual issues. By contrast, the conduct of this action as a class
13 action, with respect to some or all of the issues presented herein, presents no management difficulties,
14 conserves the resources of the parties and of the court system, and protects the rights of the members of
15 the Class. Each Plaintiff anticipates no difficulty in the management of this action as a class action. The
16 prosecution of separate actions by individual members of the Class may create a risk of adjudications
17 with respect to them that would, as a practical matter, be dispositive of the interests of the other members
18 of the Class who are not parties to such adjudications, or that would substantially impair or impede the
19 ability of such non-party Class members to protect their interests.

20 68. **Substantial Similarity.** The products at issue in the action are substantially similar in all
21 material respects. Namely, the products were all advertised with a false reference price in strikethrough
22 text and a false sale price. The products are also all sold by Defendant on the website and fall under the
23 umbrella of jewelry and accessories.

1 **V. TOLLING OF THE STATUTE OF LIMITATIONS AND DELAYED DISCOVERY**

2 69. All applicable statutes of limitations have been tolled by the delayed discovery doctrine.
3 Plaintiff and Class members could not have reasonably discovered Defendant’s practice of running
4 perpetual sales, based on deceptive reference prices and sale prices, at any time prior to commencing this
5 class action litigation.

6 70. A reasonable consumer viewing the website on multiple occasions would simply believe
7 that a product is temporarily discounted. Short of visiting and checking the website daily for many
8 months, a reasonable consumer would not suspect that Defendant’s sales and pricing practices were false
9 and misleading. Nor would a reasonable consumer be able to ascertain the market value of the products
10 being sold absent extensive investigation.

11 71. Plaintiff did not learn of Defendant’s deceptive practices alleged herein until shortly
12 before commencing this action.

13 72. As a result, any and all applicable statutes of limitations otherwise applicable to the
14 allegations herein have been tolled.

15 **FIRST CAUSE OF ACTION**

16 **VIOLATION OF CALIFORNIA UNFAIR COMPETITION LAW (CAL. BUS. &**
17 **PROF. CODE § 17200, et seq.)**
18 **(On Behalf of the California Class)**

19 73. Plaintiff restates the preceding allegations as if set forth herein.

20 74. California Business and Professions Code section 17200 et seq., known as the California
21 Unfair Competition Law (“UCL”), prohibits acts of “unfair competition,” including any “unfair or
22 fraudulent business act or practice” as well as “unfair, deceptive, untrue or misleading advertising.”

23 ***Fraudulent***

24 75. Under the UCL, a business act or practice is “fraudulent” if it is likely to deceive members
25 of the consuming public.

26 76. Here, members of the public are likely to be deceived by Defendant’s conduct as alleged
27 above. Among other things, Defendant affirmatively misrepresented the reference prices of products,
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1 which thereby misled and deceived consumers into believing that they were buying products at
2 substantially discounted prices. Defendant's deceptive marketing practice gave consumers the false
3 impression that its products were regularly listed or sold on the website for a substantially higher price
4 in the recent past than they actually were and thus led to the false impression that the products were worth
5 more than they actually were.

6 77. Defendant's representations that the products were on sale, that the products had a specific
7 former and regular prices, and that consumers were receiving genuine discounts from the reference prices,
8 were false and misleading.

9 78. In addition, Defendant had a duty to disclose the truth about its pricing deception,
10 including, among other things, that the reference prices advertised and published on its website were not,
11 in fact, prices at which Defendant's items were listed or sold on the website in the recent past for a
12 reasonably substantial period of time, but in reality, the products never (or rarely) were offered or sold at
13 the advertised reference prices. Members of the public, therefore, were also likely to be deceived by
14 Defendant's failure to disclose material information.

15 79. Defendant's advertising was fraudulent because it deceives consumers into believing they
16 are receiving a product that is worth more than it actually is.

17 80. Defendant's representations were materially misleading to Plaintiff and other reasonable
18 consumers. Consumers are influenced by price, including significant price reductions, as employed by
19 Defendant.

20 81. Plaintiff relied on Defendant's misleading representations and omissions, as detailed
21 above, believing that she was receiving a genuine and temporary discount from the advertised reference
22 price.

23 82. Absent Defendant's misrepresentations, Plaintiff and the Class would not have purchased
24 the items they purchased from Defendant, or, at minimum, they would not have paid as much for the
25 items as they ultimately did. Plaintiff and the Class's reliance was a substantial factor in causing them
26 harm.

1 83. Had the omitted information been disclosed, Plaintiff would have been aware of it and
2 reasonably would have behaved differently. Among other things, Plaintiff would not have purchased the
3 items she purchased from Defendant, or, at minimum, would not have paid as much for the items as she
4 did.

5 84. As a result of Defendant’s fraudulent business acts and practices, Defendant has and
6 continues to fraudulently obtain money from Plaintiff and members of the Class.

7 ***Unfairness***

8 85. Under the UCL, a business act or practice is “unfair” if its conduct is substantially
9 injurious to consumers, offends public policy, and is immoral, unethical, oppressive, and unscrupulous,
10 as the benefits for committing such acts or practices are outweighed by the gravity of the harm to the
11 alleged victims.

12 86. Defendant’s deceptive marketing gave consumers the false impression that the products
13 were regularly listed or sold on the website for a substantially higher price in the recent past than they
14 were and, thus, led to the false impression that Defendant’s products were worth more than they were.

15 87. Defendant’s conduct was and continues to be of no benefit to purchasers of the products,
16 as it is misleading, unfair, unlawful, and injurious to consumers. It is also against public policy, as it
17 harms fair competition. For example, the federal Lanham Act includes prohibitions on “commercial
18 advertising or promotion” that “misrepresents the nature, characteristics, qualities, or geographic origin
19 of his or her or another person’s goods, services, or commercial activities.” 41 U.S.C. § 1125(a).
20 Similarly, the FTCA and implementing regulations prohibit advertising a former price “for the purpose
21 of establishing a fictitious [] price on which a deceptive comparison might be based” (16 C.F.R. § 233.1)
22 and prohibit “offer[ing] an advance sale under circumstances where they do not in good faith expect to
23 increase the price at a later date” (16 C.F.R. § 233.5). Defendant is siphoning sales away from sellers
24 who compete fairly on price and do not promote fake regular prices and discounts. Further, there is no
25 benefit to consumers who pay a sale price that is actually a regular price.

1 88. The harm to Plaintiff and members of the California Class outweighs the utility of
2 Defendant’s practices. There were reasonably available alternatives to further Defendant’s legitimate
3 business interests, other than the unfair conduct described herein.

4 89. As a result of Defendant’s unfair business acts and practices, Defendant has and continues
5 to unfairly obtain money from Plaintiff and members of the proposed Class.

6 ***Unlawful***

7 90. A cause of action may be brought under the “unlawful” prong of the UCL if a practice
8 violates another law. Such action borrows violations of other laws and treats these violations as unlawful
9 practices independently actionable under the UCL.

10 91. By engaging in false advertising, as well as the false, deceptive, and misleading conduct
11 alleged above, Defendant engaged in unlawful business acts and practices in violation of the UCL,
12 including violations of state and federal laws and regulations. Specifically, as detailed herein, Defendant
13 violated 16 C.F.R. §§ 233.1 and 233.5, and California Business & Professions Code sections 17501.

14 * * *

15 92. In the alternative to those claims seeking remedies at law, Plaintiff and class members
16 allege that there is no plain, adequate, and complete remedy that exists at law to address Defendant’s
17 unlawful and unfair business practices. The legal remedies available to Plaintiff are inadequate because
18 they are not “equally prompt and certain and in other ways efficient” as equitable relief. *American Life*
19 *Ins. Co. v. Stewart*, 300 U.S. 203, 214 (1937); *see also United States v. Bluit*, 815 F. Supp. 1314, 1317
20 (N.D. Cal. Oct. 6, 1992) (“The mere existence’ of a possible legal remedy is not sufficient to warrant
21 denial of equitable relief.”); *Quist v. Empire Water Co.*, 2014 Cal. 646, 643 (1928) (“The mere fact that
22 there may be a remedy at law does not oust the jurisdiction of a court of equity. To have this effect, the
23 remedy must also be speedy, adequate, and efficacious to the end in view ... It must reach the whole
24 mischief and secure the whole right of the party in a perfect manner at the present time and not in the
25 future.”). For example, equitable claims may be tried by the court, whereas legal claims are tried by jury,
26 and the need for a jury trial may result in delay and additional expense. Additionally, unlike damages,
27 the Court’s discretion in fashioning equitable relief is very broad and can be awarded in situations where
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1 the entitlement to damages may prove difficult. *Cortez v. Purolator Air Filtration Products Co.*, 23
2 Cal.4th 163, 177-180 (2000) (restitution under the UCL can be awarded “even absent individualized
3 proof that the claimant lacked knowledge of the overcharge when the transaction occurred.”). Thus,
4 restitution would allow recovery even when normal consideration associated with damages would not.
5 *See, e.g., Fladeboe v. Am. Isuzu Motors Inc.*, 150 Cal. App. 4th 42, 68 (2007) (noting that restitution is
6 available even in situations where damages may not be available). Furthermore, the standard, showing,
7 and necessary elements for a violation of the UCL “unlawful” and “unfair” prongs are different from
8 those that govern legal claims.

9 93. Plaintiff, on behalf of herself and the members of the Class, seeks restitution and
10 restitutionary disgorgement of all moneys received by Defendant through the conduct described above.

11 94. Plaintiff, on behalf of herself and the members of the Class, seeks an injunction from this
12 Court prohibiting Defendant from engaging in the patterns and practices described herein, including
13 putting a stop to the deceptive advertisements and false reference prices in connection with the sale of
14 products on the website. Plaintiff and class members are entitled to injunctive relief. On information and
15 belief, the dissemination of Defendant’s false and misleading advertising is ongoing.

16 **SECOND CAUSE OF ACTION**

17 **VIOLATION OF CALIFORNIA FALSE ADVERTISING LAW, CAL. BUS. &**

18 **PROF. CODE § 17500, et seq.**

19 **(On Behalf of the California Class)**

20 95. Plaintiff restates the preceding allegations as if set forth herein.

21 96. The California False Advertising Law, codified at California Business & Professions
22 Code section 17500, et seq. (the “FAL”) provides, in relevant part, that it is unlawful for any business,
23 with intent directly or indirectly to dispose of personal property, to make or disseminate in any “manner
24 or means whatever, including over the Internet, any statement, concerning that . . . personal property . . .
25 which is untrue or misleading, and which is known, or which by the exercise of reasonable care should
26 be known, to be untrue or misleading[.]” Cal. Bus. & Prof. Code § 17500. The “intent” required by
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1 section 17500 is the intent to dispose of property, and not the intent to mislead the public in the disposition
2 of such property.

3 97. A separate section of the FAL, Cal Bus. & Prof. Code § 17501, provides:

4 For the purpose of this article the worth or value of any thing advertised is the
5 prevailing market price, wholesale if the offer is at wholesale, retail if the offer is
6 at retail, at the time of publication of such advertisement in the locality wherein the
7 advertisement is published.

8 No price shall be advertised as a *former price* of any advertised thing, unless the
9 alleged former price was the *prevailing market price* as above defined within *three*
10 *months next immediately preceding* the publication of the advertisement or unless
11 the date when the alleged former price did prevail is clearly, exactly and
12 conspicuously stated in the advertisement.

13 98. As used in Cal Bus. & Prof. Code § 17501:

- 14 ● The term “prevailing market price” refers to the “retail [price] if the offer is at
15 retail.” *Id.*
- 16 ● The term “advertised thing” refers to the exact same product offered—*not* an
17 equivalent or similar product. *People v. Superior Ct. (J.C. Penney Corp.)*, 34 Cal.
18 App. 5th 376, 412 (2019) (“if the advertisement specifies a precise item—say, by
19 reference to name, brand, or other distinctive features . . . the market and therefore
20 the market price is potentially determined on the basis of sales of *that item only.*”) (emphasis added).
- 21 ● The term “‘former price’ . . . includes but is not limited to the following words and
22 phrases when used in connection with advertised prices; ‘formerly—,’ ‘regularly—
23 ,’ ‘usually—,’ ‘originally—,’ ‘reduced from ___,’ ‘was ___ now ___,’ ‘___ % off.’”
24 4 Cal. Code Regs., § 1301 (emphasis added).
- 25 ● The “the three-month period is properly construed as a ‘*rolling*’ period, that is, one
26 whose beginning and end changes each day, thus requiring a *daily recalculation* of
27 the prevailing market price during the three-month period.” *People v. Superior Ct.*
28 (*J.C. Penney Corp.*), 34 Cal. App. 5th 376, 416 n.26 (2019) (emphasis added).

99. Defendant violated Cal Bus. & Prof. Code § 17500.

100. Defendant violated Cal Bus. & Prof. Code § 17501.

101. As explained above, Defendant routinely disseminated false and misleading reference
prices on the website for the products, including to Plaintiff. Defendant rarely, if ever, offered products

1 on the website at the reference prices within the three months immediately preceding the publication of
2 the reference prices. Additionally, the reference prices shown were not the prevailing market prices for
3 the products in the three months immediately preceding the publication.

4 102. Defendant did not verify that the advertised reference prices were the prevailing market
5 prices within the preceding three months. On information and belief, Defendant had no policies or
6 procedures to verify and update the reference prices on a daily basis.

7 103. Defendant's marketing gave consumers the false impression that the products were
8 regularly offered and sold for a substantially higher price in the recent past than they were and, thus, led
9 to the false impression that Defendant's products were worth more than they were.

10 104. Defendant knew that its advertised reference prices for the products sold on its website
11 were untrue and/or misleading. Defendant knew that such products had rarely, if ever, been offered or
12 sold on the website (or in the marketplace) at the reference prices.

13 105. As a direct and proximate result of Defendant's misleading and false advertisements,
14 Plaintiff and members of the Class have suffered injury in fact and have lost money.

15 106. Plaintiff and Class members are entitled to injunctive relief. On information and belief,
16 the dissemination of Defendant's false and misleading advertising is ongoing.

17 107. In the alternative to those claims seeking remedies at law, Plaintiff and Class members
18 allege that there is no plain, adequate, and complete remedy that exists at law to address Defendant's
19 unlawful and unfair business practices. The legal remedies available to Plaintiff are inadequate because
20 they are not "equally prompt and certain and in other ways efficient" as equitable relief. *American Life*
21 *Ins. Co. v. Stewart*, 300 U.S. 203, 214 (1937); *see also United States v. Bluit*, 815 F. Supp. 1314, 1317
22 (N.D. Cal. Oct. 6, 1992) ("The mere existence' of a possible legal remedy is not sufficient to warrant
23 denial of equitable relief."); *Quist v. Empire Water Co.*, 2014 Cal. 646, 643 (1928) ("The mere fact that
24 there may be a remedy at law does not oust the jurisdiction of a court of equity. To have this effect, the
25 remedy must also be speedy, adequate, and efficacious to the end in view ... It must reach the whole
26 mischief and secure the whole right of the party in a perfect manner at the present time and not in the
27 future."). For example, equitable claims may be tried by the court, whereas legal claims are tried by jury,
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1 and the need for a jury trial may result in delay and additional expense. Additionally, unlike damages,
2 the Court’s discretion in fashioning equitable relief is very broad and can be awarded in situations where
3 the entitlement to damages may prove difficult. *Cortez v. Purolator Air Filtration Products Co.*, 23
4 Cal.4th 163, 177-180 (2000) (restitution under the UCL can be awarded “even absent individualized
5 proof that the claimant lacked knowledge of the overcharge when the transaction occurred.”). Thus,
6 restitution would allow recovery even when normal consideration associated with damages would not.
7 *See, e.g., Fladeboe v. Am. Isuzu Motors Inc.*, 150 Cal. App. 4th 42, 68 (2007) (noting that restitution is
8 available even in situations where damages may not be available). Furthermore, the standard, showing,
9 and necessary elements for a violation of the FAL under Cal Bus. & Prof. Code § 17501 are different
10 from those that govern legal claims.

11 **THIRD CAUSE OF ACTION**

12 **VIOLATION OF THE CALIFORNIA CONSUMER LEGAL REMEDIES ACT,**

13 **CAL. CIV. CODE § 1750, et seq.**

14 **(On Behalf of the California Class)**

15 108. Plaintiff restates the preceding allegations as if set forth herein.

16 109. The Consumer Legal Remedies Act, Cal. Civ. Code sections 1750 *et seq.* (the “CLRA”),
17 is a California consumer protection statute which allows plaintiffs to bring private civil actions for “unfair
18 methods of competition and unfair or deceptive acts or practices undertaken by any person in a transaction
19 . . . which results in the sale or lease of goods or services to any consumer.” Cal. Civ. Code § 1770(a).

20 110. Plaintiff and each member of the Class are “consumers” as defined by California Civil
21 Code section 1761(d). Defendant’s sale of products on the website to Plaintiff and the Class were
22 “transactions” within the meaning of California Civil Code section 1761(e). The products purchased by
23 Plaintiff and the class are “goods” within the meaning of California Civil Code section 1761(a).

24 111. Defendant violated and continues to violate the CLRA by engaging in the following
25 practices prohibited by California Civil Code section 1770(a) in transactions with Plaintiff and the Class
26 which were intended to result in, and did result in, the sale of Defendant’s products:
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- 1 a. Making false or misleading statements of fact concerning reasons for, existence of, or
2 amounts of price reductions (Cal. Civ. Code § 1770(a)(13))
- 3 b. Advertising goods or services with intent not to sell them as advertised (Cal. Civ. Code §
4 1770(a)(9))
- 5 c. Misrepresenting that goods are of a particular standard, quality, or grade (Cal. Civ. Code
6 § 1770(a)(7))
- 7 d. Representing that goods do have characteristics they do not actually have (Cal. Civ. Code
8 § 1770(a)(5))

9 112. Regarding section 1770(a)(13), Defendant made false or misleading statements of fact
10 concerning the “existence of” and the “amounts of price reductions” because (a) no true price reductions
11 existed in that Defendant’s products were rarely, if ever, offered for sale and/or sold *on the website* at the
12 higher reference prices, let alone on a regular basis for a reasonably substantial period of time, (b) the
13 advertised reference prices were not prevailing market prices because, on information and belief, the
14 products were not predominantly offered or sold on the website or elsewhere at the reference prices for
15 a reasonably substantial period of time, (c) the products were not valued in the market at the advertised
16 reference prices and thus were not sold at a genuine bargain, and (d) Defendant deceptively represents
17 the products as discounted for a limited time when in truth the discount never expires or is effectively
18 reinstated upon expiration.

19 113. Regarding section 1770(a)(9), (7), and (5), Defendant advertised products on the website
20 with the “intent not to sell” them as advertised, and misrepresented characteristics and standards because,
21 as explained herein, (a) the reference prices on the website misled customers into believing (i) the
22 products were previously offered for sale and/or sold *on the website* at the higher reference prices on a
23 regular basis for a reasonably substantial period of time, and (ii) the products were valued in the market
24 at the advertised reference prices but were being sold at a genuine bargain, and (b) Defendant falsely
25 represents the products as temporarily discounted when in truth the discount never expires or is
26 effectively reinstated upon expiration.

1 114. In addition, Defendant had a duty to conspicuously disclose the truth about its pricing
2 deception, including that the reference prices advertised on the website were not prices at which
3 Defendant's items were regularly listed or sold on the website in the recent past, and in truth, Defendant's
4 products are typically not offered or sold on the website (and/or in the marketplace) at the advertised
5 reference prices. Reasonable consumers were likely to be deceived by Defendant's failure to disclose
6 material information.

7 115. Plaintiff and the Class reasonably relied on Defendant's representations. Absent
8 Defendant's misrepresentations, Plaintiff and the Class would not have purchased the items they
9 purchased from Defendant, or, at the very least, they would not have paid as much for the items as they
10 did. Plaintiff and the Class's reliance was a substantial factor in causing them harm.

11 116. Had the omitted information been disclosed, Plaintiff and the Class reasonably would have
12 been aware of it and behaved differently. Among other things, Plaintiff and the Class would not have
13 purchased the items they purchased from Defendant or, at the very least, would not have paid as much
14 for the items as they did.

15 117. Plaintiff, through counsel, provided notice to Defendant on December 2, 2025 pursuant to
16 Cal. Civ. Code § 1782(a) via certified mail. Plaintiff claims no damages under this count, but will amend
17 this Complaint after expiration of the 30-day response period to seek money damages and punitive
18 damages under the CLRA. At this time, Plaintiff seeks only injunctive or other equitable relief under the
19 CLRA as described above.

20 **FOURTH CAUSE OF ACTION**

21 **FRAUD (INTENTIONAL MISREPRESENTATION AND OMISSION)**

22 **(On Behalf of the California Class)**

23 118. Plaintiff restates the preceding allegations as if set forth herein.

24 119. Plaintiff pleads this claim under California law.

25 120. Defendant made false or misleading statements of fact concerning the existence and
26 amounts of price reductions because, as explained above, (a) the reference prices misled customers into
27 believing the products were previously offered for sale and/or sold on the website at the higher reference
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1 prices on a regular basis for a reasonably substantial period of time, and (b) the advertised discounts are
2 fictitious or exaggerated.

3 121. In addition, Defendant had a duty to conspicuously disclose the truth about its pricing
4 deception, including that (1) the reference prices advertised and published on the website were not prices
5 at which Defendant's items had been offered and/or sold on the website in the recent past on a regular
6 basis for a reasonably substantial period of time, (2) Defendant's products rarely (if ever) were offered
7 or sold anywhere at the advertised reference prices on a regular basis for a reasonably substantial period
8 of time, and (3) the advertised reference prices are not indicative of market value.

9 122. Defendant knew that its representations were false when made. Defendant knew that the
10 items Plaintiff and the Class purchased had rarely, if ever, been offered or sold on the website (or
11 elsewhere) at the substantially higher reference price.

12 123. Defendant's representations were made with the intent that Plaintiff and the Class rely on
13 the false representations and spend money they otherwise would not have spent, purchase items they
14 otherwise would not have purchased, and/or spend more money for an item than they otherwise would
15 have absent the deceptive marketing scheme.

16 124. Defendant engaged in this fraud to the Plaintiff and the Class's detriment to increase
17 Defendant's own sales and profits.

18 125. Plaintiff and the Class reasonably relied on Defendant's representations. Absent
19 Defendant's misrepresentations, Plaintiff and the Class would not have purchased the items they
20 purchased from Defendant or, at minimum, would not have paid as much for the items as they ultimately
21 did. Plaintiff and the Class's reliance was a substantial factor in causing them harm.

22 126. Had the omitted information been disclosed, Plaintiff and the Class reasonably would have
23 behaved differently. Among other things, they would not have purchased the items they purchased from
24 Defendant or would not have paid as much for the items as they ultimately did.

25 127. As a direct and proximate result of the above, Plaintiff and the Class have suffered
26 damages in an amount to be proven at trial.

1 otherwise would not have spent, purchase items they otherwise would not have purchased, and/or spend
2 more money for a product than they otherwise would have absent the deceptive advertising.

3 136. Plaintiff and members of the Class also conferred a monetary benefit on Defendant in the
4 form of Defendant's profits generated by the deceptive marketing scheme. Defendant profited from
5 inappropriately and artificially inflated prices.

6 137. On behalf of the Class, Plaintiff seeks restitution from Defendant and an order disgorging
7 all deceptively obtained payments and profits.

8 138. Plaintiff and the Class seek this equitable remedy because their legal remedies are
9 inadequate. An unjust enrichment theory provides the equitable disgorgement of profits even where an
10 individual has not suffered a corresponding loss in the form of money damages.

11 **SIXTH CAUSE OF ACTION**

12 **NEGLIGENT MISREPRESENTATION**

13 **(On Behalf of the California Class)**

14 139. Plaintiff restates the preceding allegations as if set forth herein.

15 140. Plaintiff pleads this claim under California law.

16 141. Defendant made false or misleading statements of fact concerning the existence of and the
17 amounts of price reductions because, as explained herein, (a) the advertised reference prices misled
18 customers into believing the products were previously offered for sale and/or sold *on the website* at the
19 higher reference prices on a regular basis for a reasonably substantial period of time, and (b) the
20 advertised discounts are fictitious or exaggerated.

21 142. In addition, Defendant had a duty to conspicuously disclose the truth about its pricing
22 deception, including that the reference prices advertised on the website were not prices at which
23 Defendant's items were listed or sold on the website in the recent past on a regular basis for a reasonably
24 substantial period of time, and in truth, Defendant's products are typically not offered or sold on the
25 website (and/or in the marketplace) at the advertised reference prices.

26 143. Defendant knew that its representations were false when made. Defendant knew that the
27 items Plaintiff and the Class purchased had rarely, if ever, been offered or sold on the website at the
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1 substantially higher reference price in the recent past. And Defendant knew or should have known that
2 the reference prices were not the prevailing market prices.

3 144. Defendant had no good faith or reasonable basis to believe that its representations were
4 true when made.

5 145. Defendant's representations were made with the intent that Plaintiff and the Class rely on
6 the false representations and spend money they otherwise would not have spent, purchase items they
7 otherwise would not have purchased, and/or spend more money for an item than they otherwise would
8 have absent the deceptive marketing scheme.

9 146. Defendant engaged in this deception to the Plaintiff and the Class's detriment to increase
10 Defendant's own sales and profits.

11 147. Plaintiff and the Class reasonably relied on Defendant's representations. Absent
12 Defendant's misrepresentations, Plaintiff and the Class would not have purchased the items they
13 purchased from Defendant, or, at the very least, they would not have paid as much for the items as they
14 ultimately did. Plaintiff and the Class's reliance was a substantial factor in causing them harm.

15 148. Had the omitted information been disclosed, Plaintiff and the Class reasonably would have
16 behaved differently. Among other things, they would not have purchased the items they purchased from
17 Defendant or, at the very least, would not have paid as much for the items as they did.

18 149. As a direct and proximate result of the above, Plaintiff and the Class have suffered
19 damages in an amount to be proven at trial.

20 **PRAYER FOR RELIEF**

21 WHEREFORE, Plaintiff, individually and on behalf of the proposed Class, respectfully prays for
22 following relief:

- 23 a. Certification of this case as a class action on behalf of the proposed Class and any
24 subclasses defined above, appointment of Plaintiff as Class representative, and
25 appointment of their counsel as Class counsel;
- 26 b. An award to Plaintiff and the proposed Class and subclasses of restitution and/or other
27 equitable relief, including, without limitation, restitutionary disgorgement of all profits
28

1 Defendant obtained from each Plaintiff and the proposed Class as a result of its unlawful,
2 unfair and fraudulent business practices described herein;

3 c. An injunction ordering Defendant to cease the false advertising and unfair business
4 practices complained of herein;

5 d. An award of all economic, monetary, actual, consequential, and compensatory damages
6 caused by Defendant’s conduct;

7 e. An award of nominal, punitive, and statutory damages where available;

8 f. Reasonable expenses and attorneys’ fees;

9 g. Pre- and post-judgment interest, to the extent allowable; and

10 h. For such further relief that the Court may deem just and proper.

11 **DEMAND FOR JURY TRIAL**

12 Plaintiff, individually and on behalf of the proposed Class, demand a trial by jury for all claims
13 so triable.

14
15 Dated: December 2, 2025

MILBERG, PLLC

16
17 By: /s/ Alexander E. Wolf

ALEXANDER E. WOLF
WILLIAM J. EDELMAN
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