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10
11 **UNITED STATES DISTRICT COURT**
12 **CENTRAL DISTRICT OF CALIFORNIA**
13

14 MARISA PAOLONE, an individual, on
15 behalf of herself and all others similarly
16 situated,

17 Plaintiff,

18 vs.

19 ADJHA NY&CO. LLC and NYCO IP
20 LLC,

21 Defendants.
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Case No.: 26-cv-3142

CLASS ACTION COMPLAINT

DEMAND FOR JURY TRIAL

1 Pursuant to Fed. R. Civ. P. 15(a)(1)(B), Plaintiff Marisa Paolone (“Plaintiff”),
2 on behalf of herself and all others similarly situated, hereby alleges the following at
3 all times relevant to this amended complaint:

4 **I. INTRODUCTION**

5 1. This action is brought against Defendant ADJHA NY&Co. LLC and
6 Defendant NYCO IP LLC (collectively, “NY&Co” or “Defendants”) for their false
7 and deceptive pricing practices in connection with their sale of clothing on the
8 website <https://www.nyandcompany.com/> (“Website”). Defendants offer direct-to-
9 consumer sale of clothing through the Website for their own branded products.

10 2. Defendants advertise fake and inflated comparison reference prices to
11 deceive customers into a false belief that the sale price is a deeply discounted bargain
12 price. For example, anyone visiting the Website on a given day will see a variety of
13 clothing products advertised as being “on sale” in comparison to a crossed-out
14 reference price. Such consumers are being misled by this advertising because those
15 clothes have rarely, if ever, been sold in the recent past on the Website or through
16 other retailers for the reference price. In other words, Defendants’ advertised “sales”
17 for all or nearly all of their products are not really sales at all. It is a misrepresentation
18 that Defendants repeat.

19 3. The reference prices on the Website are fake and designed to mislead
20 consumers. They are not original, regular, retail, or former prices. They are inflated
21 prices posted to lure unsuspecting customers into jumping at a fictitious “bargain”
22 and intended to mislead customers into believing that the value of the products they
23 are buying is higher than reality. That is, Defendants engage in this deceptive
24 advertising and pricing scheme to give customers the false impression that they are
25 getting a deal or bargain when in reality they are being swindled by fake sales and
26 promotions. As a result, customers are deceived into spending money they otherwise
27 would not have spent, purchasing items they otherwise would not have purchased,
28 and/or spending more money for an item than they otherwise would have absent the

1 deceptive marketing.

2 4. By this action, Plaintiff seeks to recover restitution and damages on
3 behalf of all persons who have fallen victim to Defendants' sham sales by purchasing
4 products from the Website.

5 **II. PARTIES**

6 5. Plaintiff Marisa Paolone is a citizen of the State of California and
7 resident of the County of Los Angeles.

8 6. On information and belief, Defendant ADJHA NY&Co. LLC is a
9 Delaware company with its principal place of business in New York, New York.

10 7. On information and belief, Defendant NYCO IP LLC is a Delaware
11 company with its principal place of business in New York, New York.

12 8. On information and belief, Defendants act in concert with each other in
13 connection with the operation and sale of products on the Website.

14 **III. JURISDICTION AND VENUE**

15 9. This Court has subject matter jurisdiction over this action pursuant to the
16 Class Action Fairness Act of 2005 and 28 U.S.C. § 1332 because the total matter in
17 controversy exceeds \$5 Million and there are over 100 members of the proposed
18 class. Further, at least one member of the proposed class is a citizen of California and
19 Defendants are each a citizen of New York.

20 10. Venue is proper pursuant to 28 U.S.C. § 1391(b)(2) because a
21 substantial part of the events or omissions giving rise to the claim occurred in this
22 judicial district.

23 11. Venue is also proper pursuant to 28 U.S.C. § 1391(b)(1), (c)(2), and
24 (c)(3) because Defendants are subject to the Court's personal jurisdiction in this
25 judicial district.

26 12. Defendants conduct, and at all relevant times, have conducted business
27 in California through the Website, including making sales to California residents and
28 delivering products into California.

1 **IV. GENERAL ALLEGATIONS**

2 **a. Defendants’ False and Deceptive Pricing Scheme**

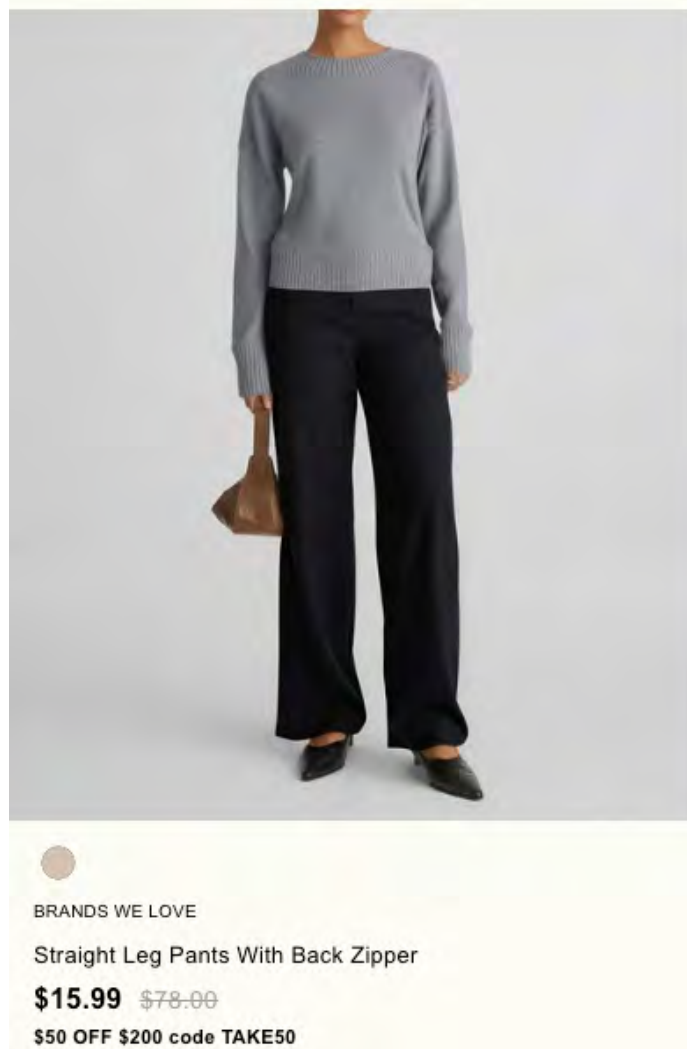
3 13. Defendants’ business model relies, in part, on deceiving customers with
4 fake sales. On a typical day, Defendants prominently display on the Website some
5 form of a sale where the advertised clothes are purportedly marked down by a dollar
6 amount. All or nearly all the clothes are represented as being marked down by the
7 specified discount from a substantially higher reference price (hereafter, the
8 “Reference Price”). The supposed markdowns are represented to the customer by
9 prominently displaying a crossed-out Reference Price next to the sale price.
10 Defendants employ these deceptive tactics to convey to customers that the product
11 had previously sold in the recent past at the Reference Price and were being sold to
12 the customer at a substantial discount.

13 14. However, this Reference Price is almost always, if not always, a falsely
14 inflated price because Defendants rarely, if ever, sold the products at the Reference
15 Price. The only purpose of the Reference Price is to mislead customers into believing
16 that the displayed Reference Price is a prevailing, original, regular, or retail price at
17 which Defendants usually sell the item or previously sold the item in the recent past.
18 As a result, Defendants falsely convey to customers that they were receiving a
19 substantial markdown or discount, when in reality the alleged discount is false and
20 fraudulent.

21 15. Below is a representative example from the Website using False
22 Reference Prices:

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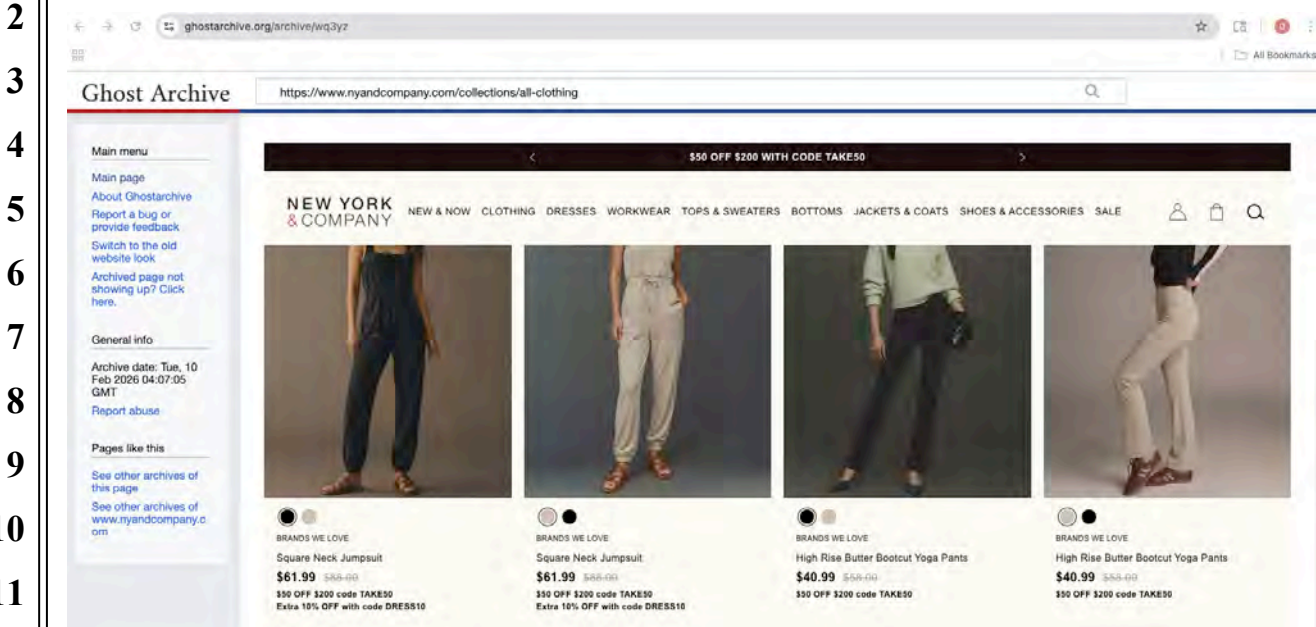


16. In the example shown above, the advertised pants have a Reference Price of \$78 that is crossed out with a purported sale price of \$15.99. Consumers reasonably understand that the advertised pants have a prevailing or ordinary price of \$78 and are being sold at a discount. In reality, the pants have never (or rarely) been sold for \$78.

17. Defendants deploy this misleading tactic across nearly all of the products offered for sale on the Website. For example, as shown in Exhibit A hereto, nearly all of the clothes advertised on the Website on March 20, 2026 are being advertised as being on sale.

18. Internet archives show that the Website similarly advertised nearly all of

1 its clothes as being on sale on February 10, 2026:



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13 19. The Website has engaged in the use of the fake sales for years. For

14 example, in 2019, Defendants' predecessors entered into a class action settlement in

15 connection with the Website for advertising using fake sales as alleged herein. *See*

16 *Rael, et al. v. RTW Retailwinds Inc., et al.*, Case No. 37-2019-00003850-CU-MC-

17 CTL, in the Superior Court of California County of San Diego. In 2023, Defendants'

18 predecessors were again sued for the same conduct. *See Mitchell, et al. v. NY and Co*

19 *Ecomm LLC, et al*, Case No. 2:23-cv-10117 (C.D.Cal.). Nonetheless, Defendants

20 have continued the same false advertising on the Website.

21 20. On information and belief, Defendants have superior access and

22 knowledge of the historic pricing and sale advertisements on the Website than

23 Plaintiff.

24 21. These pricing and advertising practices are high-pressure fake sales that

25 are deceptive. They are intended to mislead customers into believing that they are

26 getting a bargain by buying products from Defendants supposedly on sale and at a

27 substantial and deep discount. The truth is that Defendants rarely, if ever, sell any of

28 the Website's products at the Reference Price. The Reference Price is, therefore, an

1 artificially inflated price. In turn, the advertised discounts are thus nothing more than
2 phantom markdowns.

3 22. The products sold on the Website are substantially similar products that
4 Defendants market in a substantially similar way using false Reference Prices.

5 **b. Plaintiff’s Purchase of Falsely Advertised Items**

6 23. Plaintiff fell victim to Defendants’ false advertising and deceptive
7 pricing practices.

8 24. Between March and May, 2023, Plaintiff visited the Website and saw a
9 purported sale promotion on the clothes being offered for sale on the Website.
10 Plaintiff made three purchases from the Website with each product being advertised
11 at a purported discount.

12 25. Below is an image from the Website on March 28, 2023, captured by
13 <http://wayback.archive.org> of the sale promotion the Website was advertising at the
14 time of Plaintiff’s purchase:



21 26. Below is an image from the Website from May 11, 2023, captured by
22 <http://wayback.archive.org> of the sale promotion the Website was advertising at the
23 time of Plaintiff’s purchase:



27. Plaintiff browsed the Website and observed sale offers substantially

1 similar to those shown above. Plaintiff saw that the clothes on the Website were
2 supposedly on sale based on the advertised discounted offer and based on a
3 markdown from a Reference Price. The Reference Price was displayed as a
4 substantially higher price against which the sale price was compared.

5 28. Plaintiff made various purchases from the Website with the following
6 order details:

- 7 • Order number o5186651597 totaling \$99.23
- 8 • Order number N2525600 totaling \$27.85
- 9 • Order number o5688595267 totaling \$135.50

10 29. Before doing so, Plaintiff relied on the representation that these items
11 had in fact been offered for sale, or previously sold, in the recent past at the stated
12 Reference Price. Plaintiff relied on the Website's representation that the items she
13 purchased were truly discounted and being sold at a substantial markdown.

14 30. The truth, however, is that the items Plaintiff purchased were not
15 substantially marked down or discounted, or at the very least, any discount she was
16 receiving had been grossly exaggerated. That is because the items Plaintiff bought
17 had not been offered for sale on the Website (or anywhere else) for any reasonably
18 substantial period of time (if ever) at the full Reference Price.

19 31. For example, based on internet archives, the Website advertised 40-50%
20 sales on all items on January 12, 2023, January 25, 2023, January 31, 2025, February
21 13, 2023, March 14, 2023, March 21, 2023, March 22, 2023, March 24, 2023, and
22 March 27, 2023 and April 3, 2023. *See* Exhibit A.

23 32. On information and belief, Defendants manufacture and sell the clothes
24 offered for sale on the Website and sets the prices for those items. Accordingly,
25 Defendants know at what prices the items sell and whether the Reference Prices are
26 the prevailing prices for each item.

27 33. Defendants know that the Reference Prices are fake and artificially
28 inflated and intentionally uses them in its deceptive pricing scheme on the Website to

1 increase sales by misleading Plaintiff and members of the putative class to believe
2 that they are buying products at a substantial discount. Defendants thereby induce
3 customers to buy products they never would have bought—or at the very least, to pay
4 more for merchandise than they otherwise would have – if Defendants were simply
5 being truthful about the prevailing price of its products.

6 34. Plaintiff reasonably relied on the Reference Price in making her
7 purchases as a representation of the products’ value and as a representation of the
8 discount she was receiving. This information was material to her decision to purchase
9 the items and material to the price she was willing to pay.

10 35. Therefore, Plaintiff would not have purchased the items, or at the very
11 least, would not have paid as much as she did, had Defendants been truthful. Plaintiff
12 was persuaded to make these purchases because of the fake sales based on the
13 Website’s fake Reference Price.

14 36. Plaintiff would not have been willing to pay as much as she did for the
15 items she purchased had she received complete and truthful information relating to
16 Defendants’ Reference Price. Plaintiff is entitled to restitution and damages at least in
17 the form of the difference between the price she actually paid and the price a
18 reasonable consumer would have paid absent the false Reference Prices.

19 37. Plaintiff was further harmed because the price she paid for the items was
20 less than the value she received.

21 38. Plaintiff was further harmed because she did not receive the expected
22 discount or benefit-of-the-bargain advertised by the Website.

23 **c. Research Shows That the Use of Reference Price Advertising**
24 **Schemes Similar to Defendants’ Influences Consumer Behavior and**
25 **Affects Consumers’ Perception of a Product’s Value**

26 39. The effectiveness of Defendants’ deceitful pricing scheme is backed up
27 by longstanding scholarly research. In the seminal article entitled *Comparative Price*
28 *Advertising: Informative or Deceptive?* (cited in *Hinojos v. Kohl’s Corp.*, 718 F.3d

1 1098, 1106 (9th Cir. 2013)), Professors Dhruv Grewal and Larry D. Compeau write
2 that, “[b]y creating an impression of savings, the presence of a higher reference price
3 enhances subjects’ perceived value and willingness to buy the product.” Dhruv
4 Grewal & Larry D. Compeau, *Comparative Price Advertising: Informative or*
5 *Deceptive?*, 11 J. Pub. Pol’y & Mktg. 52, 55 (Spring 1992). Thus, “empirical studies
6 indicate that, as discount size increases, consumers’ perceptions of value and their
7 willingness to buy the product increase, while their intention to search for a lower
8 price decreases.” *Id.* at 56. For this reason, the Ninth Circuit in *Hinojos* held that a
9 plaintiff making a claim of deceptive pricing, as Plaintiff claims here, had standing to
10 pursue claims against the defendant retailer. In doing so, the Court observed that
11 “[m]isinformation about a product’s ‘normal’ price is . . . significant to many
12 consumers in the same way as a false product label would be.” *Hinojos*, 718 F.3d at
13 1106.

14 40. Professors Compeau and Grewal reached similar conclusions in a 2002
15 article: “decades of research support the conclusion that advertised reference prices
16 do indeed enhance consumers’ perceptions of the value of the deal.” Dhruv Grewal &
17 Larry D. Compeau, *Comparative Price Advertising: Believe It Or Not*, J. of
18 Consumer Affairs, Vol. 36, No. 2, at 287 (Winter 2002). The professors also found
19 that “[c]onsumers are influenced by comparison prices even when the stated
20 reference prices are implausibly high.” *Id.*

21 41. In another scholarly publication, Professors Joan Lindsey-Mullikin and
22 Ross D. Petty concluded that “[r]eference price ads strongly influence consumer
23 perceptions of value. . . . Consumers often make purchases not based on price but
24 because a retailer assures them that a deal is a good bargain. This occurs when . . . the
25 retailer highlights the relative savings compared with the prices of competitors . . .
26 [T]hese bargain assurances (BAs) change consumers’ purchasing behavior and may
27 deceive consumers.” Joan Lindsey-Mullikin & Ross D. Petty, *Marketing Tactics*
28 *Discouraging Price Search: Deception and Competition*, 64 J. of Bus. Research 67

1 (January 2011).

2 42. Similarly, according to Professors Praveen K. Kopalle and Joan
3 Lindsey-Mullikin, “research has shown that retailer-supplied reference prices clearly
4 enhance buyers’ perceptions of value” and “have a significant impact on consumer
5 purchasing decisions.” Praveen K. Kopalle & Joan Lindsey-Mullikin, *The Impact of*
6 *External Reference Price On Consumer Price Expectations*, 79 J. of Retailing 225
7 (2003).

8 43. The results of a 1990 study by Professors Jerry B. Gotlieb and Cyndy
9 Thomas Fitzgerald, came to the conclusion that “reference prices are important cues
10 consumers use when making the decision concerning how much they are willing to
11 pay for the product.” Jerry B. Gotlieb & Cyndy Thomas Fitzgerald, *An Investigation*
12 *Into the Effects of Advertised Reference Prices On the Price Consumers Are Willing*
13 *To Pay For the Product*, 6 J. of App’d Bus. Res. 1 (1990). This study also concluded
14 that “consumers are likely to be misled into a willingness to pay a higher price for a
15 product simply because the product has a higher reference price.” *Id.*

16 44. The clear inference to be drawn from this research and the Ninth
17 Circuit’s opinion in *Hinojos* is that the deceptive advertising through the use of false
18 reference pricing employed here by Defendants is intended to, and does in fact,
19 influence customer behavior—as it did Plaintiff’s purchasing decision here—by
20 artificially inflating customer perceptions of a given item’s value and causing
21 customers to spend money they otherwise would not have, purchase items they
22 otherwise would not have, and/or spend more money for a product than they
23 otherwise would have absent the deceptive advertising.

24 **V. CLASS ACTION ALLEGATIONS**

25 45. Plaintiff brings this action on behalf of herself and all persons similarly
26 situated pursuant to Rule 23(b)(2), 23(b)(3), and 23(c)(4) of the Federal Rules of
27 Civil Procedure and seeks certification of the following class:

28 All persons in the State of California who purchased one or more items

1 from the Website on or after March 2022 at a stated discount from a
2 higher reference price and who have not received a refund or credit for
3 their purchase(s).

4 46. The above-described class of persons shall hereafter be referred to as the
5 “Class.” Excluded from the Class are any and all past or present officers, directors, or
6 employees of Defendants, any judges who preside over this action, and any partner or
7 employee of Class Counsel. Also excluded from the Class are any members who are
8 bound by mandatory arbitration and class waiver agreements.

9 47. Plaintiff reserves the right to expand, limit, modify, or amend the class
10 definitions stated above, including the addition of one or more subclasses, in
11 connection with their motion for class certification, or at any other time, based upon,
12 among other things, changing circumstances, or new facts obtained during discovery.

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

18 49. **Typicality.** Plaintiff’s claims are typical of those of other members of
19 the Class, all of whom have suffered similar harm due to Defendants’ course of
20 conduct as described herein.

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

25 51. **Existence and Predominance of Common Questions of Law or Fact.**
26 Common questions of law and fact exist as to all members of the Class that
27 predominate over any questions affecting only individual members of the Class.
28 These common legal and factual questions, which do not vary among members of the

1 Class, and which may be determined without reference to the individual
2 circumstances of any member of the Class, include, but are not limited to, the
3 following:

- 4 (a) Whether, during the relevant time, Defendants advertised false
5 Reference Prices with respect to products on the Website.
- 6 (b) Whether, during the relevant time, Defendants advertised price
7 discounts from false Reference Prices with respect to products on the
8 Website.
- 9 (c) Whether the products on the Website were offered at their Reference
10 Prices for any reasonably substantial period of time prior to being
11 offered at prices that were discounted from their Reference Prices.
- 12 (d) Does Defendants’ deceptive pricing scheme using false Reference
13 Prices constitute an “unlawful,” “unfair,” or “fraudulent” business
14 practice in violation of the California Unfair Competition Law, Cal.
15 Bus & Prof. Code § 17200, *et seq.*?
- 16 (e) Does Defendants’ deceptive pricing scheme using false Reference
17 Prices constitute “unfair, deceptive, untrue or misleading advertising”
18 in violation of the California Unfair Competition Law, Cal. Bus & Prof.
19 Code § 17200, *et seq.*?
- 20 (f) Does Defendants’ deceptive pricing scheme using false Reference
21 Prices constitute false advertising in violation of the California False
22 Advertising Law under Business & Professions Code section 17500, *et*
23 *seq.*?
- 24 (g) Does Defendants’ deceptive pricing scheme using false Reference
25 Prices constitute a violation of the California Legal Remedies Act
26 California Civil Code §§1750, *et seq.*?
- 27 (h) Whether Defendants’ Reference Prices are false.
- 28

- 1 (i) Whether and when Defendants knew or learned that Reference Prices
2 on the Website were false.
- 3 (j) What did Defendants hope to gain from using a false Reference Price
4 scheme?
- 5 (k) What did Defendants gain from their false Reference Price scheme?
- 6 (l) Whether Defendants' use of false Reference Prices was material.
- 7 (m) Whether Defendants had a duty to disclose to its customers that the
8 Reference prices were fake "original" prices in furtherance of sham
9 sales.
- 10 (n) To what extent did Defendants' conduct cause, and continue to cause,
11 harm to the Class?
- 12 (o) Whether the members of the Class are entitled to damages and/or
13 restitution.
- 14 (p) What type of injunctive relief is appropriate and necessary to enjoin
15 Defendants from continuing to engage in false or misleading
16 advertising?
- 17 (q) Whether Defendants' conduct was undertaken with conscious disregard
18 of the rights of the members of the Class and was done with fraud,
19 oppression, and/or malice.

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

1 trials of the same factual issues. By contrast, the conduct of this action as a class
2 action, with respect to some or all of the issues presented herein, presents no
3 management difficulties, conserves the resources of the parties and of the court
4 system, and protects the rights of the members of the Class. Plaintiff anticipates no
5 difficulty in the management of this action as a class action. The prosecution of
6 separate actions by individual members of the Class may create a risk of
7 adjudications with respect to them that would, as a practical matter, be dispositive of
8 the interests of the other members of the Class who are not parties to such
9 adjudications, or that would substantially impair or impede the ability of such non-
10 party Class members to protect their interests.

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

20 **VI. CLAIMS FOR RELIEF**

21 **FIRST CLAIM FOR RELIEF**

22 **VIOLATION OF CALIFORNIA UNFAIR COMPETITION LAW (CAL. BUS. 23 & PROF. CODE §17200, *et seq.*)**

24 **(By Plaintiff Against Defendants Individually and on Behalf of the Class)**

25 54. Plaintiff restates and re-alleges the foregoing paragraphs as if fully set
26 forth herein.

27 55. California Business and Professions Code section 17200 *et seq.*, also
28 known as the California Unfair Competition Law (“UCL”), prohibits acts of “unfair

1 competition,” including any “unlawful, unfair or fraudulent business act or practice”
2 as well as “unfair, deceptive, untrue or misleading advertising.”

3 56. A cause of action may be brought under the “unlawful” prong of the
4 UCL if a practice violates another law. Such an action borrows violations of other
5 laws and treats these violations, when committed pursuant to business activity, as
6 unlawful practices independently actionable under the UCL.

7 57. Here, by engaging in false advertising, as well as the false, deceptive,
8 and misleading conduct alleged above, Defendants have engaged in unlawful
9 business acts and practices in violation of the UCL, including violations of state and
10 federal laws and regulations, such as 15 U.S.C. § 45(a)(1), 16 C.F.R. § 233.1,
11 California Business & Professions Code sections 17500 and 17501, and California
12 Civil Code sections 1770(a)(9) and 1770(a)(13).

13 58. The Federal Trade Commission Act (“FTCA”) prohibits “unfair or
14 deceptive acts or practices in or affecting commerce[.]” 15 U.S.C. § 45(a)(1). Under
15 FTC regulations, false former pricing schemes similar to the ones employed by
16 Defendants, are deceptive practices that would violate the FTCA:

17 (a) One of the most commonly used forms of bargain advertising is to offer a
18 reduction from the advertiser’s own former price for an article. If the former
19 price is the actual, bona fide price at which the article was offered to the
20 public on a regular basis for a reasonably substantial period of time, it
21 provides a legitimate basis for the advertising of a price comparison. Where
22 the former price is genuine, the bargain being advertised is a true one. If, on
23 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
24 purpose of enabling the subsequent offer of a large reduction – the “bargain”
25 being advertised is a false one; the purchaser is not receiving the unusual
26 value he expects.

27 (b) A former price is not necessarily fictitious merely because no sales at the
28 advertised price were made. The advertiser should be especially careful,
however, in such a case, that the price is one at which the product was openly
and actively offered for sale, for a reasonably substantial period of time, in the
recent, regular course of her business, honestly and in good faith – and, of

1 course, not for the purpose of establishing a fictitious higher price on which a
2 deceptive comparison might be based.

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

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

20 59. The FTCA also prohibits the pricing scheme employed by Defendants
21 regardless of whether the product advertisement and representations use the words
22 “regular,” “original,” or “former” price:

23 (e) If the former price is set forth in the advertisement, whether
24 accompanied or not by descriptive terminology such as “Regularly,”
25 “Usually,” “Formerly,” etc., the advertiser should make certain that the
26 former price is not a fictitious one. If the former price, or the amount or
27 percentage of reduction, is not stated in the advertisement, as when the ad
28 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.

29 60. Further, Defendants’ conduct as described herein also violates
30 California false advertising laws. Specifically, California Business & Professions
31 Code section 17500 provides, in relevant part, that it is unlawful for any corporation,

1 with intent directly or indirectly to dispose of personal property, to make or
2 disseminate in any “manner or means whatever, including over the Internet, any
3 statement, concerning that . . . personal property . . . which is untrue or misleading,
4 and which is known, or which by the exercise of reasonable care should be known,
5 to be untrue or misleading[.]”

6 61. California law also expressly prohibits false former pricing schemes
7 like the one employed by Defendants. California Business & Professions Code
8 section 17501, entitled “Worth or value; statements as to former price,” states as
9 follows:

10 For the purpose of this article the worth or value of any thing advertised is the
11 prevailing market price, wholesale if the offer is at wholesale, retail if the
12 offer is at retail, at the time of publication of such advertisement in the
13 locality wherein the advertisement is published.

14 No price shall be advertised as a former price of any advertised thing, unless
15 the alleged former price was the prevailing market price as above defined
16 within three months next immediately preceding the publication of the
17 advertisement or unless the date when the alleged former price did prevail is
18 clearly, exactly and conspicuously stated in the advertisement.

19 62. Moreover, Defendants’ conduct also violates the California Consumer
20 Legal Remedies Act (“CLRA”). *See* Cal. Civ. Code §§ 1750, et seq. More
21 specifically, Defendants violated the CLRA provisions prohibiting businesses from
22 “[m]aking false or misleading statements of fact concerning reasons for, existence
23 of, or amounts of price reductions[.]” Cal. Civ. Code §1770(a)(13).

24 63. A business act or practice is “unfair” under the UCL if it offends an
25 established public policy or is immoral, unethical, oppressive, unscrupulous or
26 substantially injurious to consumers, and that unfairness is determined by weighing
27 the reasons, justifications, and motives of the practice against the gravity of the
28 harm to the alleged victims.

64. Here, Defendants’ actions constitute “unfair” business acts or practices
because, as alleged above, Defendants engage in a misleading and deceptive pricing

1 scheme by advertising and representing false Reference Prices and thereby falsely
2 advertising and representing markdowns or “discounts” that are false and inflated.
3 Defendants’ deceptive marketing practice gives consumers the false impression that
4 Defendants’ products are regularly sold on the market for a substantially higher
5 price in the recent past than they actually are and thus leads to the false impression
6 that Defendants’ products are worth more than they actually are. Defendants’ acts
7 and practices thus offend an established public policy, and they engage in immoral,
8 unethical, oppressive, and unscrupulous activities that are substantially injurious to
9 consumers.

10 65. The harm to Plaintiff and members of the Class outweighs the utility of
11 Defendants’ practices. There were reasonably available alternatives to further
12 Defendants’ legitimate business interests, other than the misleading and deceptive
13 conduct described herein.

14 66. A business act or practice is “fraudulent” within the meaning of the
15 UCL if members of the public are likely to be deceived.

16 67. Here, members of the public are likely to be deceived by Defendants’
17 conduct as alleged above. Among other things, Defendants affirmatively
18 misrepresent the Reference Prices of its products sold on the Website, which thereby
19 misleads and deceives customers into believing that they were buying those
20 products at substantially marked down and discounted prices. Defendants’ deceptive
21 marketing practice gives consumers the false impression that its products were
22 regularly sold on the market for a substantially higher price in the recent past than
23 they actually were and thus leads to the false impression that Defendants’ products
24 are worth more than they actually are.

25 68. In addition, Defendants had a duty to disclose the truth about its pricing
26 deception, including, among other things, that the Reference Prices advertised and
27 published on the Website were not, in fact, prices at which the products had sold for
28 in the recent past for a reasonably substantial period of time, but that instead, in

1 reality, Defendants’ products rarely (if ever) were offered at the advertised
2 Reference Prices. Defendants, however, concealed this material information from
3 customers and the general public. Members of the public, therefore, were also likely
4 to be deceived by Defendants’ failure to disclose material information.

5 69. Plaintiff and each member of the Class suffered an injury in fact and
6 lost money or property as a result of Defendants’ unlawful, unfair, and/or fraudulent
7 business practices, and as a result of Defendants’ unfair, deceptive, untrue or
8 misleading advertising.

9 70. Plaintiff lacks an adequate remedy at law, because damages may not be
10 available or adequately compensate her for the harm she suffered.

11 71. Plaintiff, on behalf of herself and the members of the Class, seeks
12 restitution and disgorgement of all moneys received by Defendants through the
13 conduct described above.

14 72. Plaintiff, on behalf of herself and the members of the Class, seeks a
15 temporary, preliminary, and/or permanent injunction from this Court prohibiting
16 Defendants from engaging in the patterns and practices described herein, including
17 but not limited to, putting a stop to its deceptive advertisements and false Reference
18 Prices.

19 **SECOND CLAIM FOR RELIEF**

20 **VIOLATION OF CALIFORNIA FALSE ADVERTISING LAW, CAL. BUS.**

21 **& PROF. CODE §17500, *et seq.***

22 **(By Plaintiff Against Defendants Individually and on Behalf of the Class)**

23 73. Plaintiff restates the foregoing paragraphs as if fully set forth herein.

24 74. The California False Advertising Law, codified at California Business
25 & Professions Code section 17500, *et seq.* (the “FAL”) provides, in relevant part,
26 that it is unlawful for any corporation, with intent directly or indirectly to dispose of
27 personal property, to make or disseminate in any “manner or means whatever,
28 including over the Internet, any statement, concerning that . . . personal property . . .

1 which is untrue or misleading, and which is known, or which by the exercise of
2 reasonable care should be known, to be untrue or misleading[.]” Cal. Bus. & Prof.
3 Code § 17500. The “intent” required by section 17500 is the intent to dispose of
4 property, and not the intent to mislead the public in the disposition of such property.

5 75. Similarly, another section of the FAL provides, in relevant part, that
6 “no price shall be advertised as a former price of any advertised thing, unless the
7 alleged former price was the prevailing market price . . . within three months next
8 immediately preceding the publication of the advertisement or unless the date when
9 the alleged former price did prevail is clearly, exactly, and conspicuously stated in
10 the advertisement.” Cal Bus. & Prof. Code § 17501.

11 76. Here, Defendants routinely disseminate on their Website false
12 Reference Prices for their products. Such statements are untrue, or at the very least,
13 misleading. Among other things, Defendants rarely, if ever, offer the products
14 advertised on the Website for sale at the Reference Prices displayed for each
15 product. Further, Defendants rarely, if ever, offer the products advertised on the
16 Website at the Reference Prices within the three months immediately preceding the
17 publication of the Reference Prices.

18 77. Defendants thus mislead customers, including Plaintiff, into believing
19 that the Reference Prices are or were genuine original, retail, or former prices and
20 that the “sale” prices relative to the published Reference Prices, in fact, reflected
21 real and substantial discounts. Defendants’ deceptive marketing practice gave
22 consumers the false impression that its products were regularly sold for a
23 substantially higher price in the recent past than they actually were and thus led to
24 the false impression that Defendants’ products were worth more than they actually
25 were.

26 78. Defendants engage in this deceptive conduct with the intent to dispose
27 of personal property—namely, with the intent to increase the sale of the products
28 offered for sale on the Website.

1 79. Defendants knew, or by the exercise of reasonable care should have
2 known, that its dissemination of Reference Prices for products on the Website were
3 untrue and/or misleading. Among other things, Defendants represented the
4 Reference Prices even though it knew, or in the exercise of reasonable care should
5 have known, that such products had rarely, if ever, sold at the crossed-out Reference
6 Prices.

7 80. As a direct and proximate result of Defendants’ misleading and false
8 advertisements, Plaintiff and members of the Class have suffered injury in fact and
9 have lost money. As such, Plaintiff requests that this Court order Defendants to
10 restore this money to Plaintiff and all members of the Class, and to enjoin
11 Defendants from continuing its false and misleading advertising practices in
12 violation of California law in the future. Otherwise, Plaintiff, members of the Class,
13 and the broader general public will be irreparably harmed and/or denied an effective
14 and complete remedy.

15 **THIRD CLAIM FOR RELIEF**

16 **VIOLATION OF THE CALIFORNIA CONSUMER LEGAL REMEDIES**
17 **ACT, CAL. CIV. CODE §1750, *et seq.***

18 **(By Plaintiff Against Defendants Individually and on Behalf of the Class)**

19 81. Plaintiff restates and re-allege the foregoing paragraphs as if fully set
20 forth herein.

21 82. The Consumer Legal Remedies Act of 1970, Cal. Civ. Code sections
22 1750 *et seq.* (the “CLRA”) is a California consumer protection statute which allows
23 plaintiffs to bring private civil actions for “unfair methods of competition and unfair
24 or deceptive acts or practices undertaken by any person in a transaction . . . which
25 results in the sale or lease of goods or services to any consumer.” Cal. Civ. Code §
26 1770(a). The purposes of the CLRA are “to protect consumers against unfair and
27 deceptive business practices and to provide efficient and economical procedures to
28 secure such protection.” Cal. Civ. Code §1760.

1 83. Plaintiff and each member of the Class are “consumers” as defined by
2 California Civil Code section 1761(d). Defendants’ sale of its products on the
3 Website to Plaintiff and the Class were “transactions” within the meaning of
4 California Civil Code section 1761(e). The products purchased by Plaintiff and the
5 Class are “goods” within the meaning of California Civil Code section 1761(a).

6 84. Defendants violated and continue to violate the CLRA by engaging in
7 the following practices prohibited by California Civil Code section 1770(a) in
8 transactions with Plaintiff and the Class which were intended to result in, and did
9 result in, the sale of Defendants’ branded products: “Making false or misleading
10 statements of fact concerning the reasons for, existence of, or amounts of price
11 reductions.” Cal. Civ. Code §1770(a)(13).

12 85. Defendants made false or misleading statements of fact concerning the
13 “existence of” and the “amounts of price reductions” because, among other things,
14 (a) no true price reductions existed—or at the very least, any amounts of price
15 reductions were exaggerated—in that Defendants’ merchandise was rarely, if ever,
16 previously offered for sale and/or sold at the higher Reference Prices for a
17 reasonably substantial period of time, (b) there is no other channel through which
18 the products have previously been offered for sale and/or sold at the false Reference
19 Price for a reasonably substantial period of time, and (c) the Reference Prices
20 Defendants advertise on the Website were never sold elsewhere for any other prices
21 besides the falsely discounted sale prices at which customers bought items from
22 Defendants.

23 86. Plaintiff seeks an injunction for Defendants’ violation of the CLRA to
24 enjoin Defendants’ methods, acts, and practices of deceiving customers through its
25 false and misleading pricing scheme outlined above.

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FOURTH CLAIM FOR RELIEF

FRAUD

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

87. Plaintiff restates and re-alleges the foregoing paragraphs as if fully set forth herein.

88. Defendants consistently represented to all members of the Class during that the products on the Website were being offered at a discount from a Reference Price. Defendants made this representation by displaying on the product description page for each of these products a Reference Price substantially higher than the offered selling price, which is marked down or discounted from the Reference Price by a specified percentage discount or dollar amount.

89. Defendants' Reference Price representations are false. Among other things, Defendants' representations conveyed false information about the items Plaintiff and the Class purchased, namely that the items they purchased had sold in the recent past for a reasonably substantial period of time at the higher Reference Price displayed on Defendants' Website and/or in the prevailing market. The truth is that Defendants rarely, if ever, previously offered for sale and/or sold those products at the higher Reference Price for any reasonably substantial period of time.

90. Defendants knew that its representations were false when they made them, or at the very least, they made the representations recklessly and without regard for their truth. In other words, Defendants knew that the products on the Website that Plaintiff and the Class purchased had rarely, if ever, sold at the substantially higher Reference Price displayed on Defendants' Website in the recent past and/or in the prevailing market.

91. Defendants' representations were made with the intent that Plaintiff and the Class rely on the false representations and spend money they otherwise would not have spent, purchase items they otherwise would not have purchased, and/or

1 spend more money for an item than they otherwise would have absent the deceptive
2 marketing scheme.

3 92. Defendants engaged in this fraud to the Plaintiff's and the Class's
4 detriment in order to increase Defendants' own sales and profits.

5 93. Plaintiff and the Class reasonably relied on Defendants'
6 representations.

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

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

13 96. Defendants undertook the aforesaid illegal acts intentionally or with
14 conscious disregard of the rights of Plaintiff and the Class, and did so with fraud,
15 malice, and/or oppression. Based on the allegations above, Defendants' actions
16 constituted fraud because Defendants intended to and did deceive and injure
17 Plaintiff and the Class.

18 97. Based on the allegations above, Defendants' actions constituted malice
19 because Defendants acted with the intent to and did cause injury to Plaintiff and the
20 Class, and also because Defendants' deceptive conduct was despicable and was
21 done with a willful and knowing disregard of the rights of Plaintiff and the Class.

22 98. Based on the allegations above, Defendants' actions constituted
23 oppression because Defendants' deceptive conduct was despicable and subjected
24 Plaintiff and the Class to cruel and unjust hardship in knowing disregard of their
25 rights.

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FIFTH CLAIM FOR RELIEF
FRAUDULENT CONCEALMENT

(By Plaintiff Against Defendants on Behalf of the Class)

99. Plaintiff restates and re-alleges the foregoing paragraphs as if fully set forth herein.

100. Defendants uniformly disclosed incomplete facts to Plaintiff and all members of the Class on the Website. Namely, Defendants disclosed a Reference Price for products on the Website by displaying on the product description page for each item, as well as the on the thumbnail displays of each product when presented as a list, a Reference Price substantially higher than the offered selling price, which is marked down or discounted from the Reference Price by a specified percentage discount or dollar amount.

101. Defendants, however, intentionally failed to disclose other facts, making Defendants' disclosure deceptive. Specifically, Defendants failed to disclose that Defendants rarely, if ever, previously offered for sale and/or sold the products on the Website at the higher Reference Price for any reasonably substantial period of time. As a result, Defendants deceived Plaintiff and the Class into believing that they were purchasing items at a substantial markdown or discount when, in reality, the false Reference Price and discounting practice artificially inflated the true market value of the items they purchased.

102. As a separate basis for concealment, Defendants uniformly and intentionally concealed from Plaintiff and all members of the Class that the items they purchased from Defendants had rarely, if ever, been sold by Defendants in the recent past at the substantially higher Reference Price displayed on Defendants' Website and/or in the prevailing market. These were facts known only to Defendants that Plaintiff and the Class could not have reasonably discovered.

103. Plaintiff and the Class did not know of the concealed facts.

1 104. Defendants intended to deceive Plaintiff and the Class by concealing
2 the facts described above.

3 105. Had the omitted information been disclosed, Plaintiff reasonably would
4 have behaved differently. Among other things, Plaintiff would not have purchased
5 the items they purchased from Defendants, or, at the very least, they would not have
6 paid as much for the items as they ultimately did.

7 106. The omitted information was material and thus, reliance is presumed on
8 a class-wide basis. The omitted information related to the price of the items sold and
9 whether Plaintiff were receiving a true and genuine substantial discount or whether,
10 instead, Plaintiff was being deceived into buying products through a pricing scheme
11 utilizing fake, artificially inflated original, retail, or former prices, was material. A
12 reasonable person would plainly attach importance to matters affecting pricing in
13 determining his or her purchasing decision.

14 107. As a direct and proximate result of the above, Plaintiff and the Class
15 have been harmed and suffered damages in an amount to be proven at trial.

16 108. Defendants undertook the aforesaid illegal acts intentionally or with
17 conscious disregard of the rights of Plaintiff and the Class, and did so with fraud,
18 malice, and/or oppression. Based on the allegations above, Defendants' actions
19 constituted fraud because Defendants intended to and did deceive and injure
20 Plaintiff and the Class. Based on the allegations above, Defendants' actions
21 constituted malice because Defendants acted with the intent to and did cause injury
22 to Plaintiff and the Class, and also because Defendants' deceptive conduct was
23 despicable and was done with a willful and knowing disregard of the rights of
24 Plaintiff and the Class. Based on the allegations above, Defendants' actions
25 constituted oppression because Defendants' deceptive conduct was despicable and
26 subjected Plaintiff and the Class to cruel and unjust hardship in knowing disregard
27 of their rights.

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SIXTH CLAIM FOR RELIEF
BREACH OF CONTRACT

(By Plaintiff against Defendants Individually and on Behalf of the Class)

109. Plaintiff restates and re-alleges the foregoing paragraphs as if fully set forth herein.

110. Plaintiff and members of the Class each entered into a contract with Defendants when they placed purchase orders on the Website.

111. The contracts provided, in part, that Plaintiff and members of the Class would pay Defendants money for a specified product, such as clothing. In exchange, Defendants were required to provide Plaintiff and class members with the specific product having a market value equal to the Reference Price displayed on the Website. Defendants further contracted with Plaintiff and class members to provide a discount for the specific product equal to the difference between the price paid and the Reference Price.

112. Defendants, as the manufacturer, marketer, distributor, supplier, and/or seller of its products, provided material, written warranties that the products purchased by Plaintiff and the class members had a prevailing market value equal to the Reference Price. This warranty was party of the basis of the bargain upon which Plaintiff and members of the Class reasonably relied.

113. Plaintiff and class members satisfied their end of their contract with Defendants by paying Defendants the money owed.

114. Defendants, however, breached their contract and warranties with Plaintiff and class members by failing to provide a product having a market value equal to the Reference Price and by failing to provide the promised discount from the prevailing price of the product.

115. As a direct and proximate result of Defendants' breach of contract and breach of warranty, Plaintiff and members of the Class were deprived of the benefit

1 of their bargained exchange and have suffered damages in an amount to be
2 established at trial.

3 **VII. PRAYER FOR RELIEF**

4 116. WHEREFORE, Plaintiff prays for judgment against Defendants, and
5 each of them, as follow:

6 **ON THE FIRST CLAIM FOR RELIEF FOR VIOLATION OF THE**
7 **UNFAIR COMPETITION LAW (CAL. BUS. & PROF. CODE §§17200**
8 **et seq.)**

9 A. For an order certifying that the action be maintained as a class action
10 under Rule 23(b)(2), 23(b)(3), and/or Rule 23(c)(4) of the Federal Rules of Civil
11 Procedure, that Plaintiff be designated the class representative, and that undersigned
12 counsel be designated as class counsel.

13 B. For an injunction putting a stop to the deceptive and misleading
14 conduct described herein and ordering Defendants to correct its deceptive and
15 misleading advertising and pricing practices.

16 C. For an award of restitution and disgorgement of moneys paid that
17 Defendants obtained as a result of its unlawful, unfair, and fraudulent business
18 practices, and as a result of its unfair, deceptive, untrue, and misleading advertising,
19 all as described above.

20 D. For an award of equitable and declaratory relief.

21 E. For pre and post judgment interest and costs of suit incurred herein.

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

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

25 **ON THE SECOND CLAIM FOR RELIEF FOR VIOLATIONS OF THE**
26 **FALSE ADVERTISING LAW (CAL. BUS. & PROF. CODE §§17500 et seq.)**

27 H. For an order certifying that the action be maintained as a class action
28 under Rule 23(b)(2), 23(b)(3), and/or Rule 23(c)(4) of the Federal Rules of Civil

1 Procedure, that Plaintiff be designated the class representative, and that undersigned
2 counsel be designated as class counsel.

3 I. For an injunction putting a stop to the deceptive and misleading
4 conduct described herein and ordering Defendants to correct its deceptive and
5 misleading advertising and pricing practices.

6 J. For an award of restitution and disgorgement of moneys paid that
7 Defendants obtained as a result of its unlawful, unfair, and fraudulent business
8 practices, and as a result of its unfair, deceptive, untrue, and misleading advertising,
9 all as described above.

10 K. For an award of equitable and declaratory relief.

11 L. For pre and post judgment interest and costs of suit incurred herein.

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

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

15 **ON THE THIRD CLAIM FOR RELIEF FOR VIOLATIONS OF THE**
16 **CONSUMER LEGAL REMEDIES ACT (CAL. CIV. CODE §§1750 *et seq.*)**

17 O. For an order certifying that the action be maintained as a class action
18 under Rule 23(b)(2), 23(b)(3), and/or Rule 23(c)(4) of the Federal Rules of Civil
19 Procedure, that Plaintiff be designated the class representative, and that undersigned
20 counsel be designated as class counsel.

21 P. For an injunction putting a stop to the deceptive and misleading
22 conduct described herein and ordering Defendants to correct its deceptive and
23 misleading advertising and pricing practices.

24 Q. For an award of equitable and declaratory relief.

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

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

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1 **ON THE FOURTH CLAIM FOR RELIEF FOR FRAUD (AFFIRMATIVE**
2 **MISREPRESENTATIONS)**

3 T. For an order certifying that the action be maintained as a class action
4 under Rule 23(b)(2), 23(b)(3), and/or Rule 23(c)(4) of the Federal Rules of Civil
5 Procedure, that Plaintiff be designated the class representative, and that undersigned
6 counsel be designated as class counsel.

7 U. For compensatory damages in an amount to be proven at trial.

8 V. For punitive damages in an amount sufficient to punish Defendants and
9 to deter it from engaging in wrongful conduct in the future.

10 W. For pre and post judgment interest and costs of suit incurred herein.

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

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

14 **ON THE FIFTH CLAIM FOR RELIEF FOR FRAUDULENT**
15 **CONCEALMENT**

16 Z. For an order certifying that the action be maintained as a class action
17 under Rule 23(b)(2), 23(b)(3), and/or Rule 23(c)(4) of the Federal Rules of Civil
18 Procedure, that Plaintiff be designated the class representative, and that undersigned
19 counsel be designated as class counsel.

20 AA. For compensatory damages in an amount to be proven at trial.

21 BB. For punitive damages in an amount sufficient to punish Defendants and
22 to deter it from engaging in wrongful conduct in the future.

23 CC. For pre and post judgment interest and costs of suit incurred herein.

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

26 EE. For such other and further relief as the Court may deem just and proper.
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ON THE SIXTH CLAIM FOR RELIEF FOR BREACH OF CONTRACT

FF. For an order certifying that the action be maintained as a class action under Rule 23(b)(2), 23(b)(3), and/or Rule 23(c)(4) of the Federal Rules of Civil Procedure, that Plaintiff be designated the class representative, and that undersigned counsel be designated as class counsel.

GG. For compensatory damages in an amount to be proven at trial.

HH. For pre and post judgment interest and costs of suit incurred herein.

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

Dated: March 24, 2026

CARTER ARNETT PLLC

By: /s/ Omer Salik
Omer Salik
Attorneys for Plaintiff
Marisa Paolone

JURY DEMAND

Plaintiff, on behalf of herself and all others similarly situated, hereby demands a trial by jury on all triable issues.

Dated: March 24, 2026

CARTER ARNETT PLLC

By: /s/ Omer Salik
Omer Salik
Attorneys for Plaintiff
Marisa Paolone