

LYNCH CARPENTER LLP
Todd D. Carpenter (CA 234464)
todd@lcllp.com
Scott G. Braden (CA 305051)
scott@lcllp.com
1350 Columbia Street, Ste. 603
San Diego, California 92101
Telephone: 619.762.1910
Facsimile: 619.756.6991

*Attorneys for Plaintiff and
Proposed Class Counsel*

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

STEPHANIE ABERL, on behalf of herself
and all others similarly situated,

Plaintiff,

vs.

ASHLEY FURNITURE INDUSTRIES, LLC,
a Wisconsin limited liability company, and
DOES 1- 50, inclusive,

Defendants.

Case No. '22CV505 JLS NLS

CLASS ACTION COMPLAINT

Violations of:

- 1. California's Unfair Competition Laws ("UCL"), CAL. BUS. & PROF. CODE §§ 17200, et seq.;**
- 2. California's False Advertising Laws ("FAL"), CAL. BUS. & PROF. CODE §§ 17500, et seq.;**
- 3. California Consumer Legal Remedies Act ("CLRA"), CAL. CIV. CODE §§ 1750, et seq.**

DEMAND FOR JURY TRIAL

1 Plaintiff Stephanie Aberl brings this action on behalf of herself and all others
2 similarly situated against Defendant Ashley Furniture Industries, LLC (“Defendant” or
3 “Ashley Furniture”), and states:

4 **I. NATURE OF THE ACTION**

5 1. Discounts of products benefit both sellers and their customers—when they are
6 legitimate. To the detriment of consumers, as announced by the Ninth Circuit, sellers are
7 “well aware of consumers’ susceptibility to a bargain, [and] therefore have an incentive to
8 lie to their customers.” *Hinojos v. Kohl’s Corp.*, 718 F.3d 1098, 1101 (9th Cir. 2013).
9 Products perceived by consumers as discounted are thus not always actual bargains, and
10 consumers’ perceptions can stem directly from sellers’ deceptions. This class action seeks
11 monetary damages, restitution, declaratory, and injunctive relief from Defendant arising
12 from its own deceptive business practice of advertising fictitious “original” prices and
13 corresponding phantom discounts on its e-commerce website, ashleyfurniture.com, where
14 it sells home furniture and other household products.

15 2. False reference pricing occurs when a seller fabricates a false “original” price
16 for a product and then offers that product at a substantially lower price under the guise of a
17 sale. The resulting artificial price disparity misleads consumers into believing the product
18 they are buying has a higher market value, and it induces them into purchasing the product.
19 This practice artificially inflates the true market price for these products by raising
20 consumers’ internal reference price and in turn the value consumers ascribe to these
21 products (i.e., demand). Consequently, false reference pricing schemes enable retailers, like
22 Defendant, to sell products above their true market price and value—and consumers are left
23 to pay the price.

24 3. The following example of a hypothetical DVD seller, which is parallel to
25 Defendant’s deceptive business practice, illustrates the illegal false reference pricing
26 scheme and its attendant harm to consumers. A seller knows it can sell a particular DVD at
27 \$5.00, which represents both the market price and the price at which the seller could
28 regularly offer the DVD and make a profit. Instead, however, the seller creates an inflated

1 “original” price for the DVD of \$100.00 and advertises the DVD as “on sale” at **90% off**
2 rendering the “**sale**” **price** of the DVD \$10.00. When a consumer purchases the DVD, he
3 presumes he got a “good deal” on a DVD previously sold—i.e., valued by others in the
4 market—at the “original” advertised price of \$100.00. The consumer’s presumption and
5 purchase stem directly from the seller’s purposeful deception. For example, if the seller
6 tried to sell the same DVD for \$10.00 **without** referencing a false original price of \$100.00,
7 and the attendant 90% off discount, the seller would not be able to sell any DVDs at \$10.00
8 because the true, original market price of the DVD is \$5.00. In contrast, by presenting
9 consumers with a false “original” price of \$100.00, consumers will purchase the DVD at
10 \$10.00; the seller thus fabricates an increase in demand for the DVD through the **perceived**
11 **value** of both the DVD itself and the substantial discount of \$90.00. Consumers’ increased
12 willingness and demand to pay \$10.00 for the DVD will in turn impact the overall market
13 price of the DVD. Therefore, the seller can create a false market price for the DVD at \$10.00
14 by advertising a false “original” price and a corresponding phantom discount of 90% off.
15 Plaintiff’s case seeks to remedy this deception, its attendant harm to consumers, and that
16 disparity—the impact on the increase in market price through Defendant’s application of an
17 illegal discounting scheme.

18 4. It is well-established that false reference pricing violates federal law and
19 various state consumer protection statutes. Even so, sellers, including Ashley Furniture,
20 continue to use the tactic because they know they will be able to increase sales and profits
21 by tricking consumers into making purchasing decisions based on the advertised reference
22 prices. The information available to consumers varies for different types of products;
23 nonetheless, consumers frequently lack full information about products and as a result often
24 use information from sellers to make purchase decisions.

25 5. Through its false and misleading marketing, advertising, and pricing scheme
26 alleged herein, Ashely Furniture violated, and continues to violate, federal law and various
27 state consumer protection laws, which prohibit the advertisement of goods for sale
28 discounted from false former prices. These laws also prohibit the dissemination of

1 misleading statements about the existence and amount of price reductions. Specifically,
2 Defendant violated and continues to violate California’s Unfair Competition Law (“UCL”),
3 CAL. BUS. & PROF. CODE §§ 17200, *et seq.*, California’s False Advertising Law (“FAL”),
4 CAL. BUS. & PROF. CODE §§ 17500, *et seq.*, and California Consumer Legal Remedies Act
5 (“CLRA”), CAL. CIV. CODE §§ 1750, *et seq.*;

6 6. Plaintiff brings this action on behalf of herself and other similarly situated
7 consumers who have purchased one or more products through ashleyfurniture.com that
8 were deceptively represented as discounted from a false reference price. Plaintiff seeks to
9 halt the dissemination of this false, misleading, and deceptive pricing scheme, to correct the
10 false and misleading perception it has created in the minds of consumers, and to obtain
11 redress for those who have purchased products tainted by this deceptive pricing scheme.
12 Plaintiff also seeks to enjoin Defendant from using misrepresentations regarding former
13 price comparisons in its labeling, marketing, and advertising permanently. Furthermore,
14 Plaintiff seeks to obtain actual, statutory, and punitive damages, restitution, injunctive relief,
15 reasonable costs and attorneys’ fees, and other appropriate relief in the amount by which
16 Defendant was unjustly enriched as a result of its sales offered at a false discount.

17 **II. JURISDICTION AND VENUE**

18 7. This Court has original jurisdiction of this action pursuant to the Class Action
19 Fairness Act, 28 U.S.C. § 1332(d)(2). The matter in controversy, exclusive of interest and
20 costs, exceeds the sum or value of \$5,000,000 and at least some members of the proposed
21 Class (defined below) have a different citizenship from Defendant.

22 8. The Southern District of California has personal jurisdiction over Defendant
23 and is the proper venue for this action pursuant to 28 U.S.C. § 1391(b)(1) in that Plaintiff
24 resides and was injured in this district wherein a substantial part of the events or omissions
25 giving rise to her claims occurred. Further, Defendant is a corporation or other business
26 entity that conducts substantial business in this district and has sufficient minimum contacts
27 in California, and/or otherwise intentionally avails itself to the California market through
28 the operation of its e-commerce website.

1 **III. GENERAL ALLEGATIONS**

2 **A. Retailers Benefit from False Reference Pricing Schemes.**

3 9. Ashley Furniture engages in a false and misleading reference price scheme in
4 the marketing and selling of its products on its Ashley Furniture e-commerce website.

5 10. Sellers substantially benefit from employing false reference pricing schemes
6 and experience increased sales because consumers use advertised reference prices to make
7 purchase decisions. The information available to consumers can vary significantly amongst
8 different types of products.¹ Nonetheless, consumers frequently lack fundamental
9 information about a product and as a result often rely on information from sellers to make
10 purchase decisions, especially when a product’s value or quality is otherwise difficult to
11 discern.²

12 11. Consumers incorporate Defendant’s deceptive advertised reference prices into
13 their decision processes for a few reasons. First, a product’s “price is also used as an
14 indicator of product quality.”³ In other words, consumers view Defendant’s deceptive
15 advertised reference prices as a proxy for product quality. Second, reference prices
16
17

18 ¹ Even within a product, consumers may have imperfect information on the individual
19 attributes. Economists describe “search goods” as those whose attributes “can be
20 ascertained in the search process prior to purchase” (e.g., style of a shirt), “experience
21 goods” as those whose attributes “can be discovered only after purchase as the product is
22 used” (e.g., longevity of a shirt), and “credence goods” as those whose attributes “cannot
be evaluated in normal use” (e.g., whether the shirt’s cotton was produced using organic
farming methods). Darby, Michael R., and Edi Karni. “Free Competition and the Optimal
Amount of Fraud.” *The Journal of Law and Economics* 16 no. 1 (1973): 67-88, pp. 68-69.

23 ² “Not only do consumers lack full information about the prices of goods, but their
24 information is probably even poorer about the quality variation of products simply because
25 the latter information is more difficult to obtain”. Nelson, Phillip. “Information and
Consumer Behavior.” *Journal of Political Economy* 78, no. 2 (1970): 311-329, pp. 311-
312. *See also* David Adam Friedman, *Reconsidering Fictitious Pricing*, 100 Minn. L. Rev.
921, 935 (2016).

26 ³ Grewal, Dhruv, and Larry D. Compeau. “Comparative price advertising: Informative or
27 deceptive?” *Journal of Public Policy & Marketing* (1992): 52-62, p. 54. *Also see* Thaler,
28 Richard. “Mental Accounting and Consumer Choice.” *Marketing Science* 4, no. 3 (1985):
199-214, p. 212 (“The [reference price] will be more successful as a reference price the less
often the good is purchased. The [reference price] is most likely to serve as a proxy for
quality when the consumer has trouble determining quality in other ways (such as by
inspection)”).

1 “appeal[] to consumers’ desire for bargains or deals.”⁴ Academic researchers note how
 2 consumers “sometimes expend more time and energy to get a discount than seems
 3 reasonable given the financial gain involved” and “often derive more satisfaction from
 4 finding a sale price than might be expected on the basis of the amount of money they
 5 actually save.”⁵ Under this concept, coined “transaction utility” by Noble Prize-winning
 6 economist Richard Thaler, consumers place some value on the psychological experience of
 7 obtaining a product at a perceived bargain.⁶

8 12. Research in marketing and economics has long recognized that consumer
 9 demand can be influenced by “internal” and “external” reference prices.⁷ Internal reference
 10 prices are “prices stored in memory” (*e.g.*, a consumer’s price expectations adapted from
 11 past experience) while external reference prices are “provided by observed stimuli in the
 12 purchase environment” (*e.g.*, a “suggested retail price,” or other comparative sale price).⁸
 13 Researchers report that consumer’s internal reference prices adjust toward external
 14 reference prices when valuing a product.⁹ For products purchased infrequently, external
 15 reference prices can be particularly influential because consumers have little or no prior

16 _____
 17 ⁴ Grewal, Dhruv, and Larry D. Compeau. “Comparative price advertising: Informative or
 18 deceptive?” *Journal of Public Policy & Marketing* (1992): 52-62, p. 52.

19 ⁵ Darke, Peter and Darren Dahl. “Fairness and Discounts: The Subjective Value of a
 20 Bargain.” *Journal of Consumer Psychology* 13, no 3 (2003): 328-338, p. 328.

21 ⁶ “To incorporate ... the psychology of buying into the model, two kinds of utility are
 22 postulated: *acquisition utility* and *transaction utility*. The former depends on the value of
 23 the good received compared to the outlay, the latter depends solely on the perceived merits
 24 of the ‘deal’”. Thaler, Richard. “Mental Accounting and Consumer Choice.” *Marketing
 Science* 4, no. 3 (1985): 199-214, p. 205.

25 ⁷ Empirical results “suggest that internal reference prices are a significant factor in purchase
 26 decisions. The results also add empirical evidence that external reference prices
 27 significantly enter the brand-choice decision.” Mayhew, Glenn E. and Russell S. Winer.
 28 “An Empirical Analysis of Internal and External Reference Prices using Scanner Data.”
Journal of Consumer Research 19, no. 1 (1992): 62-70, p. 68.

⁸ Mayhew, Glenn E. and Russell S. Winer. “An Empirical Analysis of Internal and External
 Reference Prices using Scanner Data.” *Journal of Consumer Research* 19, no. 1 (1992): 62-
 70, p. 62.

⁹ “Buyers’ internal reference prices adapt to the stimuli prices presented in the
 advertisement. That is, buyers either adjust their internal reference price or accept the
 advertised reference price to make judgments about the product’s value and the value of the
 deal.” Grewal, Dhruv, Kent B. Monroe, and Ramayya Krishnan. “The Effects of Price-
 Comparison Advertising on Buyers’ Perceptions of Acquisition Value, Transaction Value,
 and Behavioral Intentions.” *The Journal of Marketing* 62 (1998): 46-59, p. 48.

1 internal reference.¹⁰ In other words, “[t]he deceptive potential of such advertised reference
 2 prices are likely to be considerably higher for buyers with less experience or knowledge of
 3 the product and product category.”¹¹ Academic literature further reports that “there is ample
 4 evidence that consumers use reference prices in making brand choices”¹² and publications
 5 have summarized the empirical data as follows:

6 Inflated reference prices can have multiple effects on consumers. They can
 7 increase consumers’ value perceptions (transaction value and acquisition
 8 value), reduce their search intentions for lower prices, increase their purchase
 9 intentions, and reduce their purchase intentions for competing products ...
 10 Inflated and/or false advertised reference prices enhance consumers’ internal
 11 reference price estimates and, ultimately, increase their perceptions of value
 12 and likelihood to purchase[.]¹³

13 13. Sellers, including Defendant, understand consumers are vulnerable to
 14 perceived bargains. Thus, Defendant has a substantial financial interest in exploiting
 15 consumers’ well-known behavioral tendencies by inducing consumers into believing they
 16 are receiving a bargain even when they are not. The phenomena of people
 17 disproportionately relying on an initial piece of information when making a decision, known
 18 as “anchoring,”¹⁴ is especially relevant in this context.¹⁵ Reference prices are often the *first*,
 19 if not the *only*, insight into a product besides the sale price itself. Thus, consumers use the
 20 reference price as a baseline upon which to perceive a product’s value.

21 ¹⁰ As Thalen notes, “the [suggested retail price] will be more successful as a reference price
 22 the less often the good is purchased.” Thaler, Richard. “Mental Accounting and Consumer
 23 Choice.” *Marketing Science* 4, no. 3 (1985): 199-214, p. 212.

24 ¹¹ Grewal, Dhruv, and Larry D. Compeau. “Pricing and public policy: A research agenda
 25 and an overview of the special issue.” *Journal of Public Policy & Marketing* 18, no. 1
 26 (1999): 3-10, p. 7.

27 ¹² Kalyanaram, Gurusurthy, and Russell S. Winer. “Empirical Generalizations from
 28 Reference Price Research.” *Marketing Science* 14, no. 3 (1995): G161-G169, p. G161.

¹³ Grewal, Dhruv, and Larry D. Compeau. “Pricing and public policy: A research agenda
 and an overview of the special issue.” *Journal of Public Policy & Marketing* 18, no. 1
 (1999): 3-10, p. 7.

¹⁴ See Program on Negotiation, *Anchoring Effect*, HARV. L. SCH., <http://www.pon.harvard.edu/tag/anchoring-effect> (“[T]he anchoring effect, [is] the tendency for the first offer to “anchor” the bargaining that follows in its direction, even if the offer recipient thinks the offer is out of line.”).

¹⁵ Friedman, *supra* note 2, at 933.

1 **B. State and Federal Pricing Regulations Prohibit False “Original price”**
2 **references and Out-Dated “Original price” references.**

3 14. Under California law, for instance, a seller may only discount an item from its
4 own *original price* for up to 90 days; or in the alternative, a seller may offer a discount from
5 the original price of an item being offered by a competitor, within the relevant market, for
6 up to 90 days. In either scenario, a seller can only offer a “sale” from an original price for
7 90 days. At that point, on day 91, the seller has two options: the product must either return
8 to its full original price or the seller may continue to sell the product at the discounted price
9 as long as it discloses to the consumer the date on which the product was last offered for
10 sale at its alleged former price. See BUS. & PROF. CODE § 17501. Under California law, a
11 seller cannot use an old, outdated, “original price” as the basis for a sale or discount unless
12 it discloses to the consumer the date on which the prior original price was offered in the
13 market. *Id.*

14 15. Additionally, laws in the States of California, Illinois, New Hampshire, New
15 Jersey, Oregon, Pennsylvania, Virginia, West Virginia, and the District of Columbia
16 expressly prohibit making false or misleading statements of fact “concerning reasons for,
17 existence of, or amounts of price reductions.” See CAL. CIV. CODE § 1770(a)(13).

18 16. Additionally, under the FTCA, when a seller offers a discount from *its own*,
19 former *original price*, the original price is required to have been a price at which the seller
20 held that item out for sale on a regular basis for a commercially reasonable period of time.
21 See 16 C.F.R. § 233.1(a) and (b).

22 **C. Defendant’s Fraudulent Price Discounting Scheme Violates California**
23 **and Other State Laws and Federal Regulations.**

24 17. Defendant engages in a false and misleading reference price scheme in the
25 marketing and selling of the products offered on its e-commerce website. Defendant
26 advertises furniture and other household products for sale by listing them with a fictitious
27 original price and a corresponding sale price. The original price communicates “the
28 product’s worth and the prestige that ownership of the product conveys.” *Hinojos*, 718 F.3d

1 at 1106 (*citing* Dhruv Grewal & Larry D. Compeau, Comparative Price Advertising:
2 Informative or Deceptive?, 11 J. Pub. Pol’y & Mktg. 52, 55 (Spring 1992) (“By creating an
3 impression of savings, the presence of a higher reference price enhances subjects’ perceived
4 value and willingness to buy the product.”). “Misinformation about a product’s ‘normal’
5 price is . . . significant to many consumers in the same way as a false product label would
6 be.” *Hinojos*, 718 F.3d at 1106.

7 18. Defendant consistently advertises its products on its e-commerce website
8 alongside an “original” price and the corresponding sale price. Defendant advertises a
9 seemingly original price, in truth a false reference price, with a strikethrough. The false
10 reference price operates as a baseline consumers rely on to assess a product’s value. The
11 discount percentage is often shown alongside the “original” price to communicate to
12 consumers that Defendant is selling a product at a substantial discount, even though the
13 product is not in fact discounted. The sale price displayed directly next to the false reference
14 price conveys a “deep discount” at which Defendant presently offers a product, ostensibly
15 for a limited time. For example, as seen in Exhibit A, a product entitled “Caladerson Sofa”
16 shows an “original” price of “\$749.99” directly next to a “sale” price of “\$449.99” from
17 Defendant’s e-commerce website on August 26, 2021.

18 19. However, the products sold on Defendant’s e-commerce website are never sold
19 at the price displayed with a strikethrough—the price consumers are led to presume is the
20 full original price. The “deep discount” of products communicated to consumers viewing
21 Defendant’s e-commerce website constitutes a misrepresentation by Defendant. The
22 “original” price merely serves as a false reference price Defendant uses as part of a larger
23 scheme to deceptively manufacture false discounts to incentivize consumers to make
24 purchases.

25 20. Defendant’s purposeful practice operates by deceiving consumers into
26 (1) making purchases they otherwise would not have made and (2) paying substantially
27 more for products they believed are heavily discounted and thus worth more than their
28 actual value. The only plausible explanation for Defendant’s above illustrated practice is to

1 drive sales, artificially inflate the perceived value of its products, and, as a result, artificially
2 inflate the price at which consumers are willing to buy its products. Defendant has, and
3 without intervention will continue to, increase sales by creating the illusion of short-lived
4 bargains through purporting to offer products on sale from false original prices.

5 21. Defendant's perpetual listings of its products as discounted on its e-commerce
6 website constitute false, fraudulent, and deceptive advertising because the advertised
7 reference prices it displays list substantially higher prices than those ever offered by
8 Defendant. The reference prices only serve to deceive consumers; they function as
9 benchmark prices from which the false discount and corresponding "sale" price are derived.
10 Defendant's scheme tricks consumers into justifiably believing they are getting a significant
11 deal when in reality consumers are paying the usual retail price for products.

12 22. In sum, the false reference prices, the strikethrough of said prices, and the sale
13 prices all displayed next to each other on product listing pages on Defendant's e-commerce
14 website are all part of Defendant's purposeful, deceptive scheme. The products sold through
15 Defendant's e-commerce website are *never* offered for sale, nor sold, at the corresponding
16 advertised false reference price. Defendant advertises false reference prices with a purpose
17 to induce consumers into believing its products were once sold at said price. The
18 strikethrough of the false reference prices next to products creates a false sense of urgency
19 in consumers. Defendant intends for consumers to be misled that Defendant will sell its
20 products at the advertised, higher reference price "again" if they do not purchase its products
21 soon; and consumers *are* misled. Consumers believe they are receiving a substantial bargain
22 when they purchase products on Defendant's e-commerce website at the "discounted" sale
23 price. However, Defendant did not actually sell products on its e-commerce website at the
24 advertised reference prices within 90 days of discounting them. In fact, Defendant never
25 offered or sold products at their advertised false reference price, and consumers thus never
26 received a true bargain. All while fully aware of its deception, Defendant has achieved, and
27 might continue to achieve, its ultimate, continuing purpose of driving sales with sham
28 markdowns.

1 23. Nowhere on Defendant’s e-commerce website does Defendant disclose that
2 the reference or “original” prices displayed are not: former prices; or recent, within 90 days
3 regularly offered former prices; or prices at which identical products are sold elsewhere in
4 the market. The omission of these disclosures, coupled with Defendant’s use of fictitious
5 advertised reference prices, renders Defendant’s pricing scheme inherently misleading.

6 24. Moreover, the advertised discounts were fictitious because the reference prices
7 did not represent a *bona fide* price at which Defendant previously sold or offered to sell the
8 products on a regular basis for a commercially reasonable period of time, as required by the
9 Federal Trade Commission (“FTC”). In addition, the represented advertised reference
10 prices were not the prevailing market retail price within the three months (90 days)
11 immediately preceding the publication of the advertised former reference price, as required
12 by California law.

13 25. Thus, Defendant’s scheme intends to, and does, provide misinformation to the
14 customer. The misinformation communicates to consumers, including Plaintiff, that the
15 products sold on Defendant’s e-commerce website have greater value than the advertised
16 discounted price.

17 26. The reference prices listed and advertised on products sold through
18 Defendant’s e-commerce website are false or severely outdated reference prices utilized
19 only to perpetuate Defendant’s false discount scheme.

20 27. Defendant knows that its reference price advertising is false, deceptive,
21 misleading, and unlawful under state and federal law.

22 28. Defendant fraudulently concealed from and intentionally failed to disclose the
23 truth about its advertised discount prices and former reference prices to Plaintiff and other
24 members of the Class.

25 29. At all relevant times, Defendant has been under a duty to Plaintiff and the Class
26 to disclose the truth about its false discounts.

27
28

1 **D. Investigation**

2 30. Products sold on Ashley Furniture’s e-commerce website are priced uniformly.
3 In other words, the products sold by Defendant bear a substantially discounted sale price
4 that appears next to the “crossed out” or “strikethrough” “original” price, with discounts
5 typically ranging from 8% to 40% off. Plaintiff’s counsel’s investigation confirmed that
6 the merchandise purchased by Plaintiff was priced with a false reference price and a
7 corresponding discounted price for at least the 90-day period immediately preceding
8 Plaintiff’s purchases. The merchandise purchased by Plaintiff was not, and are not, offered
9 for sale in any other market.

10 31. Plaintiff’s counsel conducted a thorough investigation of Defendant’s website.
11 Plaintiff’s counsel deployed a sophisticated software program to track each item offered for
12 sale on the ashleyfurniture.com website. Plaintiff’s counsel tracked the pricing of certain
13 merchandise offered for sale through ashleyfurniture.com various periods from 2020
14 through the present. A sample of the items tracked are attached as Exhibit B. For the
15 duration of the tracking period, each product remained significantly discounted from its
16 reference price. The investigation indicated the false reference pricing scheme was uniform
17 across Defendant’s e-commerce website.

18 32. Plaintiff’s counsel also researched Defendant’s e-commerce website through
19 the Wayback Machine. The website snapshots recorded by the Wayback Machine are
20 consistent with Plaintiff’s counsel’s investigation. As a result, Plaintiff’s counsel’s
21 investigation has tracked nearly every item on Defendant’s website from 2020 through the
22 present.

23 33. The false reference price and corresponding discount price scheme were both
24 uniform and identical on almost all products sold through Defendant’s e-commerce website.
25 The only change was the requisite “discount” on certain products.

26 34. Thus, the fraudulent price scheme applies to all products offered for sale
27 through Defendant’s e-commerce website, including the product purchased by Plaintiff.
28

1 Thus, the fraudulent price scheme applies to all products offered for sale through
2 Defendant's e-commerce website, including the product purchased by Plaintiff.

3 **IV. PARTIES**

4 **Plaintiff**

5 35. Plaintiff Stephanie Aberl resides in Lake Elsinore, California. Plaintiff, in
6 reliance on Defendant's false and deceptive advertising, marketing and discounting pricing
7 schemes, purchased a metal twin bed from Ashley Furniture's e-commerce website and the
8 accompanying mattress / pillow set on April 13, 2020. Plaintiff examined several products
9 on Defendant's website before deciding to purchase the bed after reviewing the item's
10 advertised sale price. The item Plaintiff purchased was advertised as having an original price
11 that was higher than the sale price. Defendant advertised the item as having a sale price,
12 which was at a discount from the advertised original price. The Metal Twin Bed was listed
13 on sale at \$96.99 and the strikethrough or "false" reference price was listed at \$159.99.
14 Plaintiff purchased the Metal Twin Bed for \$96.99 and accompanying mattress and pillow
15 through the website, Ashleyfurniture.com for a total of \$217.68.

16 36. After observing the original price of the item and the accompanying the sale
17 price, Plaintiff believed she was receiving a significant discount on the product she had
18 chosen. Because she was interested in the Metal Twin Bed and felt that the discounted price
19 would likely not last, and that she was getting a significant bargain on the product (almost
20 40% off), she proceeded to finish checking out and purchased the Metal Twin Bed.

21 37. However, this product was never offered for sale at the original price listed on
22 Ashley Furniture's e-commerce website, and certainly not within the 90 days preceding
23 Plaintiff's purchase. Nor was it listed for sale at the full price in an Ashley Furniture brick
24 and mortar store.

25 38. Plaintiff's case is substantially predicated on Defendant's violation of CAL
26 BUS. & PROF. CODE § 17501, an equitable claim, as Plaintiff's counsel's investigation
27 revolved around ensuring that Defendant did not sell products at the indicated reference
28 price within the 90 days preceding Plaintiff's purchase and, likewise, that Defendant failed

1 to disclose to consumers the date on which products was last offered at its advertised
2 reference price. This claim and test of liability go to the heart of Plaintiff's case and the
3 same test is not available under a CLRA legal claim for damages. Thus, Plaintiff does *not*
4 have an adequate remedy at law because the CLRA does not provide the same metric of
5 liability as CAL BUS. & PROF. CODE § 17501, which is integral not only to Plaintiff's prayer
6 for restitution, but also to Plaintiff's very theory of liability at trial.

7 39. Plaintiff reasonably relied upon Defendant's artificially inflated reference
8 prices and false discounts when purchasing the product from Defendant's e-commerce
9 website. Plaintiff would not have made such a purchase but for Defendant's representations
10 regarding the substantial discount being offered for the product. Plaintiff would like to
11 continue buying from Defendant's e-commerce website in the future but cannot be certain
12 of the veracity of Defendant's advertised bargains.

13 40. Plaintiff and the Class reasonably and justifiably acted and relied on the
14 substantial price differences that Defendant advertised, and they made purchases believing
15 they were receiving a substantial discount on a product of greater value than the value it had
16 in actuality. Plaintiff, like other Class members, was lured in, relied on, and was damaged
17 by the deceptive pricing scheme Defendant carried out.

18 41. Plaintiff was damaged in her purchase because Defendant's false reference
19 price discounting scheme inflated the true market value of the items they purchased.
20 Plaintiff is susceptible to this reoccurring harm because she cannot be certain that Defendant
21 has corrected this deceptive pricing scheme and she desires to shop at Ashley Furniture's e-
22 commerce website in the future. However, she currently cannot trust that Defendant will
23 accurately price its products truthfully and in a non-misleading fashion in compliance with
24 applicable law. Plaintiff does not have the resources on her own to determine whether
25 Defendant is complying with California and Federal law with respect to its pricing practices.

26 42. Additionally, because of the wide selection of furniture and home furnishings
27 available on Defendant's website, and due to the likelihood that Defendant may yet develop
28 and market additional falsely priced products for sale online, Plaintiff may again, though by

1 mistake, purchase a falsely discounted product from Defendant under the impression that
2 the advertised reference price represented a *bona fide* former price at which the item was
3 previously offered for sale by Defendant. Indeed, Plaintiff desires to continue purchasing
4 furniture and other home furnishings from Ashley Furniture in the future. Moreover, Class
5 members will continue to purchase the items from Ashley Furniture while reasonably but
6 incorrectly believing that their advertised reference prices represent *bona fide* former prices
7 at which they were previously offered for sale by Defendant.

8 43. Absent an equitable injunction enjoining Defendant from continuing in the
9 unlawful course of conduct alleged herein, Plaintiff, Class members, and the public will be
10 irreparably harmed and denied an effective and complete remedy because they face a real
11 and tangible threat of future harm emanating from Defendant's ongoing conduct that cannot
12 be remedied with monetary damages. Accordingly, Plaintiff, Class members, and the
13 general public lack an adequate remedy at law and an injunction is the only form of relief
14 which will guarantee Plaintiff and other consumers the appropriate assurances.

15 44. Moreover, Plaintiff lacks an adequate remedy at law with respect to her claim
16 for equitable restitution because she has not yet retained an expert to determine whether an
17 award of damages can or will adequately remedy her monetary losses caused by Defendant.
18 Particularly, as legal damages focus on remedying the loss to the plaintiff and equitable
19 restitution focuses wholly distinctly on restoring monies wrongly acquired by the defendant,
20 legal damages are inadequate to remedy Plaintiff's loss because Plaintiff does not know at
21 this juncture, and is certainly not required to set forth evidence, whether a model for legal
22 damages (as opposed to equitable restitution) will be viable or will adequately compensate
23 Plaintiff's losses.

24 **Defendant**

25 45. Plaintiff is informed and believes, and upon such information and belief
26 alleges, Defendant Ashley Furniture, LLC, is a limited liability company organized under
27 the laws of Wisconsin with its principal executive offices in Arcadia, Wisconsin. Defendant
28 operates Ashley Furniture retail stores as well as ashleyfurniture.com website, and

1 advertises, markets, distributes, and/or sells furniture and other household products in
2 California and throughout the United States. Plaintiff is informed and believes and thereon
3 alleges that Ashley Furniture employs over 30,000 employees and had sales revenue
4 exceeding \$6 billion in 2019.

5 46. Plaintiff does not know the true names or capacities of the persons or entities
6 sued herein as Does 1-50, inclusive, and therefore sues such defendants by such fictitious
7 names. Plaintiff is informed and believes, and upon such information and belief alleges, that
8 each of the Doe defendants are in some manner legally responsible for the damages suffered
9 by Plaintiff and the Class members as alleged herein. Plaintiff will amend this Complaint
10 to set forth the true names and capacities of these defendants when they have been
11 ascertained, along with appropriate charging allegations, as may be necessary.

12 **v. CLASS ALLEGATIONS**

13 47. Plaintiff brings this action on behalf of herself and all other similarly situated
14 Class members pursuant to Rule 23(a), (b)(2) and (b)(3) of the Federal Rules of Civil
15 Procedure and seeks certification of the following Class against Defendant:

16 All persons, within the State of California, who, within the applicable
17 statutory period (the "Class Period"), purchased from Ashley Furniture's e-
18 commerce website, one or more products at discounts from an advertised
reference price and who have not received a refund or credit for their
purchase(s).

19 Excluded from the Class are Defendant, as well as its officers, employees, agents or
20 affiliates, parent companies and/or subsidiaries, and each of their respective officers,
21 employees, agents or affiliates, and any judge who presides over this action. Plaintiff
22 reserves the right to expand, limit, modify, or amend these Class definitions, including the
23 addition of one or more subclasses, in connection with their motion for class certification,
24 or at any other time, based upon, *inter alia*, changing circumstances and/or new facts
25 obtained during discovery.

26 48. **Numerosity:** Members of the Class are so numerous that joinder of all
27 members is impracticable. Plaintiff is informed and believes that the proposed Class
28 contains at least thousands of individuals who have been damaged by Defendant's conduct

1 as alleged herein. The precise number of Class members is unknown to Plaintiff at this time,
2 but Plaintiff expects it can readily be established through Defendant's records.

3 49. ***Existence and Predominance of Common Questions of Law and Fact:*** This
4 action involves common questions of law and fact, which predominate over any questions
5 affecting individual Class members. These common legal and factual questions include, but
6 are not limited to, the following:

7 a. whether, during the Class Period, Defendant used advertised false
8 reference prices on products sold through its e-commerce website;

9 b. whether, during the Class Period, the original price advertised by
10 Defendant was the prevailing market price for the products in question during the
11 three months period preceding the dissemination and/or publication of the advertised
12 former prices;

13 c. whether Defendant's alleged conduct constitutes violations of the laws
14 asserted;

15 d. whether Defendant engaged in unfair, unlawful and/or fraudulent
16 business practices under the laws asserted;

17 e. whether Defendant engaged in false or misleading advertising;

18 f. whether Plaintiff and members of the Class are entitled to damages
19 and/or restitution and the proper measure of that loss;

20 g. whether an injunction is necessary to prevent Defendant from
21 continuing to use false, misleading or illegal price comparison; and

22 h. whether Plaintiff and members of the Class are entitled to an award of
23 reasonable attorneys' fees, interest, and costs of suit.

24 50. ***Typicality:*** Plaintiff's claims are typical of the claims of the members of the
25 Class because, *inter alia*, all members of the Class have been deceived (or were likely to be
26 deceived) by Defendant's false and deceptive price advertising scheme, as alleged herein.
27 Plaintiff is advancing the same claims and legal theories on behalf of herself and all
28 members of the Class.

1 51. **Adequacy:** Plaintiff will fairly and adequately protect the interests of the
2 members of the Class. Plaintiff has retained counsel experienced in complex consumer class
3 action litigation, and Plaintiff intends to prosecute this action vigorously. Plaintiff has no
4 antagonistic or adverse interest to those of the Class.

5 52. **Superiority:** The nature of this action and the nature of laws available to
6 Plaintiff and the Class make the use of the class action format a particularly efficient and
7 appropriate procedure to afford relief to them and the Class for the wrongs alleged. The
8 damages or other financial detriment suffered by individual members of the Class is
9 relatively modest compared to the burden and expense that would be entailed by individual
10 litigation of their claims against Defendant. It would thus be virtually impossible for
11 Plaintiff and members of the Class, on an individual basis, to obtain effective redress for
12 the wrongs done to them. Absent the class action, members of the Class and the general
13 public would not likely recover, or would not likely have the chance to recover, damages,
14 restitution, or injunctive relief, and Defendant will be permitted to retain the proceeds of its
15 fraudulent and deceptive misdeeds.

16 53. All members of the Class, including Plaintiff, were exposed to one or more of
17 Defendant's misrepresentations or omissions of material fact in advertising false reference
18 prices. Due to the scope and extent of Defendant's consistent false sale prices and
19 advertising scheme disseminated in a constant years-long campaign to consumers, it can be
20 reasonably inferred that such misrepresentations or omissions of material fact were
21 uniformly made to all members of the Class. In addition, it can be reasonably presumed that
22 all members of the Class, including Plaintiff, affirmatively acted in response to the
23 representations contained in Defendant's false advertising scheme when purchasing
24 products sold through Defendant's e-commerce website.

25 54. **Ascertainability:** Defendant keeps extensive computerized records of its
26 customers through, *inter alia*, customer loyalty programs, co-branded credit cards, and
27 general marketing programs. Defendant has one or more databases through which a
28 significant majority of members of the Class may be identified and ascertained, and it

1 maintains contact information, including email and home addresses, through which notice
2 of this action could be disseminated in accordance with due process requirements.

3 **VI. CAUSES OF ACTION**

4 **FIRST CAUSE OF ACTION**

5 **Violation of California’s Unfair Competition Law (“UCL”)**
6 **CAL. BUS. & PROF. CODE §§ 17200, *et seq.***

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

9 56. Plaintiff brings this claim individually and on behalf of the members of the
10 proposed Class against Defendant Ashley Furniture for violations of the UCL, CAL. BUS. &
11 PROF. CODE §§ 17200, *et seq.*

12 57. The UCL defines “unfair business competition” to include any “unlawful,
13 unfair or fraudulent” act or practice, as well as any “unfair, deceptive, untrue or misleading”
14 advertising. CAL. BUS. PROF. CODE § 17200.

15 58. The UCL imposes strict liability. Plaintiff and members of the Class need not
16 prove that Defendant intentionally or negligently engaged in unlawful, unfair, or fraudulent
17 business practices—but only that such practices occurred.

18 ***“Unfair” Prong***

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

23 60. Defendant’s actions constitute “unfair” business practices because, as alleged
24 above, Defendant engaged in misleading and deceptive price comparison advertising that
25 represented false reference prices and corresponding deeply discounted phantom “sale”
26 prices. Defendant’s acts and practices offended an established public policy of transparency
27 in pricing, and constituted immoral, unethical, oppressive, and unscrupulous activities that
28 are substantially injurious to consumers.

1 61. The harm to Plaintiff and members of the Class outweigh the utility of
2 Defendant's practices because Defendant's practice of advertising false discounts provides
3 no utility and only harms consumers. There were reasonably available alternatives to further
4 Defendant's legitimate business interests other than the misleading and deceptive conduct
5 described herein.

6 ***"Fraudulent" Prong***

7 62. A business act or practice is "fraudulent" under the UCL if it is likely to
8 deceive members of the consuming public.

9 63. Defendant's acts and practices alleged above constitute fraudulent business
10 acts or practices as they have deceived Plaintiff and members of the Class and are highly
11 likely to deceive members of the consuming public. Plaintiff and members of the Class
12 relied on Defendant's fraudulent and deceptive representations regarding its false or
13 outdated "original prices" for products sold by Defendant through its e-commerce website.
14 These misrepresentations played a substantial role in Plaintiff's and members of the Class's
15 decision to purchase the product at a purportedly steep discount, and Plaintiff and members
16 of the Class would not have purchased the product without Defendant's misrepresentations.

17 ***"Unlawful" Prong***

18 64. A business act or practice is "unlawful" under the UCL if it violates any other
19 law or regulation.

20 65. Defendant's act and practices alleged above constitute unlawful business acts
21 or practices as it has violated state and federal law in connection with its deceptive pricing
22 scheme. The FTCA prohibits "unfair or deceptive acts or practices in or affecting
23 commerce" (15 U.S.C. § 45(a)(1)) and prohibits the dissemination of any false
24 advertisements. 15 U.S.C. § 52(a). Under the FTC, false former pricing schemes, like
25 Defendant's, are described as deceptive practices that would violate the FTCA:

26 (a) One of the most commonly used forms of bargain advertising is to offer a
27 reduction from the advertiser's own former price for an article. If the former
28 price is the actual, bona fide price at which the article was offered to the public
on a regular basis for a reasonably substantial period of time, it provides a
legitimate basis for the advertising of a price comparison. Where the former
price is genuine, the bargain being advertised is a true one. If, on the other

1 hand, the former price being advertised is not bona fide but fictitious – for
 2 example, where an artificial, inflated price was established for the purpose
 3 of enabling the subsequent offer of a large reduction – the “bargain” being
 4 advertised is a false one; the purchaser is not receiving the unusual value he
 5 expects. In such a case, the “reduced” price is, in reality, probably just the
 6 seller’s regular price.

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

14 16 C.F.R. § 233.1(a) and (b) (emphasis added).

15 66. In addition to federal law, California law also expressly prohibits false former
 16 pricing schemes. The FAL, CAL. BUS. & PROF. CODE § 17501, entitled “*Worth or value;*
 17 *statements as to former price,*” states:

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

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

27 CAL. BUS. & PROF. CODE § 17501.

28 67. As detailed in Plaintiff’s Third Cause of Action below, the CLRA, CAL. CIV.
 CODE § 1770(a)(9), prohibits a business from “[a]dvertising goods or services with intent
 not to sell them as advertised,” and subsection (a)(13) prohibits a business from “[m]aking
 false or misleading statements of fact concerning reasons for, existence of, or amounts of
 price reductions.”

68. As detailed herein, the acts and practices alleged were intended to or did result
 in violations of the FTCA, the FAL, and the CLRA.

69. Defendant’s practices, as set forth above, misled Plaintiff, the proposed Class,
 and the public in the past and will continue to mislead in the future. Consequently,

1 Defendant’s practices constitute an unlawful, fraudulent, and unfair business practice within
2 the meaning of the UCL.

3 70. Defendant’s violations of the UCL, through its unlawful, unfair, and fraudulent
4 business practices, are ongoing and present a continuing threat that members of the Class
5 and the public will be deceived into purchasing products based on price comparisons of
6 arbitrary and inflated reference prices and substantially discounted “sale” prices. These false
7 comparisons created phantom markdowns and lead to financial damage for consumers like
8 Plaintiff and the members of the Class.

9 71. Pursuant to the UCL, Plaintiff and members of the Class are entitled to
10 preliminary and permanent injunctive relief enjoining Defendant from further engagement
11 in this unfair competition, as well as disgorgement and restitution to Plaintiff and the Class
12 of all Defendant’s revenues wrongfully obtained from them as a result of Defendant’s unfair
13 competition, or such portion of those revenues as the Court may find equitable.

14 **SECOND CAUSE OF ACTION**

15 **Violation of California’s False Advertising Law (“FAL”)** 16 **CAL. BUS. & PROF. CODE §§ 17500, *et seq.***

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

19 73. Plaintiff brings this claim individually and on behalf of the members of the
20 proposed Class against Defendant Ashley Furniture for violations of the FAL, CAL. BUS. &
21 PROF. CODE §§ 17500, *et seq.*

22 74. CAL. BUS. & PROF. CODE § 17500 provides:

23 It is unlawful for any . . . corporation . . . with intent directly or indirectly to
24 dispose of . . . personal property or to perform services, professional or
25 otherwise, or anything of any nature whatsoever or to induce the public to
26 enter into any obligation relating thereto, to make or disseminate or cause to
27 be made or disseminated . . . from this state before the public in any state, in
28 any newspaper or other publication, or any advertising device, or by public
outcry or proclamation, or in any other manner or means whatever, including
over the Internet, any statement, concerning that . . . personal property or those
services . . . which is untrue or misleading, and which is known, or which by
the exercise of reasonable care should be known, to be untrue or misleading .
..

1 (Emphasis added).

2 75. The “intent” required by section 17500 is the intent to make or disseminate
3 personal property (or cause such personal property to be made or disseminated) and not the
4 intent to mislead the public in the making or dissemination of such property.

5 76. Similarly, this section provides, “[n]o price shall be advertised as a former
6 price of any advertised thing, unless the alleged former price was the prevailing market
7 price ... within three months next immediately preceding the publication of the
8 advertisement or unless the date when the alleged former price did prevail is clearly, exactly
9 and conspicuously stated in the advertisement.” CAL BUS. & PROF. CODE § 17501.

10 77. Defendant’s routine practice of advertising discounted prices from false
11 reference prices, which were never the prevailing market prices of those products and were
12 materially greater than the true prevailing prices (i.e., Defendant’s actual sale price),
13 constitutes an unfair, untrue, and misleading practice. Defendant’s deceptive marketing
14 practice gave consumers the false impression that the products on Defendant’s e-commerce
15 website were regularly sold on the market for a substantially higher price than the price for
16 which they were sold in actuality. Moreover, Defendant’s deceptive marketing practice
17 misled consumers by creating a false impression that the products sold through Ashley
18 Furniture’s e-commerce website were worth more than their actual worth.

19 78. Defendant misled consumers by making untrue and misleading statements and
20 failing to disclose what is required as stated in the Code alleged above.

21 79. As a direct and proximate result of Defendant’s misleading and false
22 advertisements, as well as Defendant’s deceptive and unfair acts and practices made during
23 the course of Defendant’s business, Plaintiff and members of the Class suffered
24 ascertainable loss and actual damages.

25 80. Plaintiff and members of the Class request that this Court order Defendant to
26 restore this money to Plaintiff and all members of the Class, and to enjoin Defendant from
27 continuing these unfair practices in violation of the FAL in the future. Otherwise, Plaintiff,
28

1 members of the Class, and the broader general public, will be irreparably harmed and/or
2 denied an effective and complete remedy.

3 **THIRD CAUSE OF ACTION**

4 **Violation of California’s Consumers Legal Remedies Act (“CLRA”),**
5 **CAL. CIV. CODE § 1750, *et seq.***

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

8 82. Plaintiff brings this claim individually and on behalf of the members of the
9 proposed Class against Defendant Ashley Furniture for violations of the CLRA, CAL. CIV.
10 CODE § 1750, *et seq.*

11 83. Plaintiff and each member of the proposed Class are “consumers” as defined
12 by CAL. CIV. CODE § 1761(d). Defendant’s sale of products through its e-commerce
13 website, ashleyfurniture.com, were “transactions” within the meaning of CAL. CIV. CODE
14 § 1761(e). The products purchased by Plaintiff and members of the Class are “goods” or
15 “services” within the meaning of CAL. CIV. CODE §§ 1761(a) - (b).

16 84. Defendant violated and continues to violate the CLRA by engaging in the
17 following practices proscribed by CAL. CIV. CODE § 1770(a) in transactions with Plaintiff
18 and members of the Class which were intended to result in, and did result in, the sale of
19 products sold through its website:

20 a. advertising goods or services with intent not to sell them as
21 advertised; § 1770(a)(9); and

22 b. making false or misleading statements of fact concerning reasons
23 for, existence of, or amounts of price reductions; § 1770(a)(13).

24 85. On April 13, 2022, Plaintiff, through counsel, sent a CLRA demand letter to
25 Defendant that provided notice of Defendant’s violation of the CLRA and demanded
26 Defendant correct, repair, replace, or otherwise rectify the unlawful, unfair, false, and
27 deceptive practices complained of herein. The letter also stated that if Defendant refused to
28 do so, Plaintiff would file a complaint seeking damages in accordance with the CLRA. If

1 Defendant does not respond to Plaintiff’s letter or agree to rectify the problems associated
2 with the actions detailed above and give notice to all affected consumers within 30 days of
3 the date of written notice pursuant to § 1782, Plaintiff will amend his complaint to seek
4 actual, punitive, and statutory damages, as appropriate against Defendant.

5 86. Filed concurrently herewith is a declaration of venue pursuant to CAL. CIV.
6 CODE §1780(d).

7 **VII. PRAYER FOR RELIEF**

8 Wherefore, Plaintiff, on behalf of herself and all other members of the Class, request
9 that this Court award relief against Defendant as follows:

- 10 a. an order certifying the class and designating Plaintiff as the Class
11 Representative and her counsel as Class Counsel;
- 12 b. awarding Plaintiff and members of the Class restitution and
13 disgorgement of all profits and unjust enrichment that Defendant obtained from
14 Plaintiff and the Class members as a result of its unlawful, unfair, and fraudulent
15 business practices described herein;
- 16 c. awarding Plaintiff and members of the Class actual, statutory, and
17 punitive damages;
- 18 d. awarding declaratory and injunctive relief as permitted by law or equity,
19 including: enjoining Defendant from continuing the unlawful practices as set forth
20 herein, and directing Defendant to identify, with Court supervision, victims of its
21 misconduct and pay them all money they are required to pay;
- 22 e. order Defendant to engage in a corrective advertising campaign;
- 23 f. awarding attorneys’ fees and costs; and
- 24 g. for such other and further relief as the Court may deem necessary or
25 appropriate.

26
27 ///

28 ///

VIII. DEMAND FOR JURY TRIAL

Plaintiff hereby demand a jury trial for all of the claims so triable.

Dated: April 13, 2022

LYNCH CARPENTER, LLP

By: /s/ Todd D. Carpenter

Todd D. Carpenter (CA 234464)

todd@lcllp.com

Scott G. Braden (CA 305051)

scott@lcllp.com

1350 Columbia Street, Ste. 603

San Diego, California 92101

Telephone: (619) 762-1910

Facsimile: (619) 756-6991

*Attorneys for Plaintiff and
Proposed Class Counsel*

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28