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8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **COUNTY OF SANTA CLARA**

10 PEOPLE OF THE STATE OF CALIFORNIA,	CASE NO. 18CV332846
11 Plaintiff,	
12 v.	COMPLAINT FOR INJUNCTION, CIVIL PENALTIES, AND OTHER RELIEF
13 ADOREME, INC., a Delaware Corporation,	
14 Defendant.	UNLIMITED CIVIL COMPLAINT – OVER \$25,000

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16 The PEOPLE OF THE STATE OF CALIFORNIA, by and through its attorneys: Jeffrey F.
17 Rosen, District Attorney of Santa Clara County, by Jennifer Deng, Deputy District Attorney, allege
18 the following upon information and belief:
19

20 **JURISDICTION AND VENUE**

21 1. JEFFREY F. ROSEN, District Attorney for the County of Santa Clara, State of California,
22 acting to protect the general public from unlawful business practices and false and misleading
23 advertising, bring this suit in the public interest in the name of THE PEOPLE OF THE STATE OF
24 CALIFORNIA. Plaintiff by this action and pursuant to California Business and Professions Code
25 Sections 17200, 17203, 17204, 17206, 17500, 17535, and 17536, seeks to obtain civil penalties and
26 other remedies for the defendant’s violations of the above statutes.
27

1 17500. They include, but are not limited to, the following written and oral claims and statements
2 that appeared on Defendant's websites, television advertisements, internet advertisements, and print
3 advertisements:

- 4 A. Advertising reduced pricing for products without qualifying that the consumer
5 must enroll in the VIP membership which required a negative option continuing
6 service with Defendant;
7 B. Advertising store credit can be used anytime when store credit was forfeited when
8 VIP memberships were cancelled.

9 7. As a result of the untrue and/or misleading statements described in Paragraph 6 above,
10 Defendant is subject to injunctive relief and civil penalties under Business & Professions Code
11 Sections 17535 and 17536.

12
13 **SECOND CAUSE OF ACTION**

14 **VIOLATION OF CALIFORNIA BUSINESS AND PROFESSIONS CODE § 17602**
15 **(Automatic Renewal Law)**

16 8. Plaintiff re-alleges and incorporates herein by reference Paragraphs 1 through 7 inclusive
17 of this Complaint as though fully set forth herein.

18 9. Beginning within four years prior to the filing of this Complaint, Defendant engaged
19 throughout the state of California in a course of conduct constituting violations of Automatic
20 Renewal Laws as defined by Business and Professions Code Sections 17601 and 17602, including
21 but not limited to the following specific violations:

- 22 A. That Defendant failed to present the Automatic Renewal Offer or Continuous
23 Service offer terms in a Clear and Conspicuous manner before the subscription
24 agreement or Automatic Renewal Offer is fulfilled and in visual proximity as set
25 forth in the California Business and Professions Code Section 17602(a)(1).
26 B. That Defendant failed to obtain the consumer's affirmative consent to the
27 agreement containing the Automatic Renewal Offer Terms or Continuous Service

1 offer terms before charging the consumer's credit or debit card or the consumer's
2 account with a third party as set forth in California Business and Professions Code
3 Section 17602(a)(2);

4 C. That Defendant failed to provide an acknowledgment that includes the automatic
5 renewal terms, and information regarding how to cancel in a manner that is
6 capable of being retained by the consumer as set forth in California Business and
7 Professions Code Section 17602(a)(3);

8 D. That Defendant failed to provide a timely and easy to use cancellation mechanism
9 as set forth in California Business and Professions Code Section 17602(b).

10
11 **THIRD CAUSE OF ACTION**

12 **VIOLATION OF CALIFORNIA BUSINESS AND PROFESSIONS CODE § 17200**
13 **(Unfair Competition)**

14 10. Plaintiff re-alleges and incorporates herein by reference Paragraphs 1 through 9 inclusive
15 of this Complaint as though fully set forth herein.

16 11. Within four years prior to the filing this complaint, Defendant violated California
17 Business and Professions Code Section 17200 by engaging in unlawful, unfair and fraudulent
18 business practices, including, but not limited to the following acts within Santa Clara County,
19 California:

20 A. Committing the acts and violations of law alleged in the First and Second Cause
21 of Actions above;

22 B. That Defendant made it difficult for customers to cancel their negative option
23 subscription by requiring phone cancellations, then keeping customers on the
24 phone for extended periods of time without live customer service.

25 C. That Defendant dissuaded consumers from cancelling, requiring consumers to
26 answer a questionnaire before allowing members to cancel their VIP membership.

1 D. That Defendant refused to allow consumers to cancel their negative option
2 subscription under specific circumstances.

3 B. That Defendant violated the provisions of the Restore Online Shoppers
4 Confidence Act. 15 U.S.C. Section 8401-8405.

5 14. As a result of these actions, Defendant is subject to civil penalties pursuant to Business
6 and Professions Code Section 17206, and to injunctive relief pursuant to Business and Professions
7 Code Sections 17203 and 17204.

8 **PRAYER**

9 **WHEREFORE, PLAINTIFF PRAYS** for judgment as follows:

10 1. For a permanent injunction, pursuant to California Business and Professions Code
11 Sections 17203, 17204, 17535, and 17536, restraining and enjoining Defendant and its officers,
12 directors, employees, agents, representatives, successors and assigns, and all persons, corporations or
13 other entities acting in concert or participation with or for them from engaging in any of the
14 following practices:

15 2. That pursuant to California Business and Professions Code Section 17536, Defendant be
16 ordered to pay a civil penalty in the amount of up to TWO THOUSAND FIVE HUNDRED
17 DOLLARS (\$2,500.00) for each and every violation of the California Business Professions Code
18 Section 17500 as alleged in the First Cause of Action.

19 3. That pursuant to California Business and Professions Code Section 17206, Defendant be
20 ordered to pay a civil penalty in the amount of up to TWO THOUSAND FIVE HUNDRED
21 DOLLARS (\$2,500.00) for each and every violation of the California Business and Professions
22 Code Section 17200 as alleged in the Second Cause of Action.

23 4. That Defendant be ordered to pay restitution to each person who is a victim of Defendant's
24 acts of deceptive advertising and unfair competition.


25 5. That Plaintiff recover its costs of suit.

26 6. That Plaintiff be given such other further relief as the nature of this case may require and
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1 this Court deems proper to fully and successfully dissipate the effects of the unlawful and unfair acts
2 complained of in this Complaint.

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4 Executed this 10th day of August 2018, at San Jose, California.

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6 JEFFREY F. ROSEN
7 SANTA CLARA COUNTY DISTRICT ATTORNEY

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9 By  _____
10 Jennifer Deng
11 Deputy District Attorney

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14 NOTICE: THIS COMPLAINT IS DEEMED VERIFIED PURSUANT TO
15 CODE OF CIVIL PROCEDURE SECTION 446
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