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2019 JAN 04 03:57 PM
KING COUNTY
SUPERIOR COURT CLERK
E-FILED
CASE #: 19-2-00381-2 SEA

**SUPERIOR COURT OF WASHINGTON
FOR KING COUNTY**

WEIMIN CHEN,
for Himself, as a Private
Attorney General, and
All Others Similarly Situated,

Plaintiff,

v.

LAMPS PLUS, INC.,
and DOES 1-20, inclusive,

Defendants.

No. _____

CLASS ACTION COMPLAINT
FOR DAMAGES AND INJUNCTIVE
RELIEF UNDER THE CONSUMER
PROTECTION ACT, RCW 19.86

Plaintiff WEIMIN CHEN, demanding trial by jury as to all issues so triable in a separate document to be filed, alleges as follows, on personal knowledge and/or on information and belief, against Defendant Lamps Plus, Inc. ("Lamps Plus"), and Defendants Does 1 through 20, inclusive:

I. INTRODUCTION AND SUMMARY

1. Defendant Lamps Plus, which calls itself "The Nation's Largest Lighting Retailer," violates Washington law by advertising false discounts from false reference prices for its proprietary and exclusive products ("Exclusive Products"). Lamps Plus's fraudulent scheme

1 harms Washington State consumers by inducing them to pay more than they otherwise would
2 have paid and to buy more than they otherwise would have bought.

3 2. Lamps Plus engages in a scheme in its retail stores and on its website to defraud
4 its customers by fooling them into believing that Lamps Plus is offering its Exclusive Products
5 (which customers are misled into thinking are not exclusive) at a significantly lower price than at
6 which those same products are being offered by competing retailers. Lamps Plus has invented
7 dozens of brand names for its Exclusive Products which deceptively sound like independent
8 third-party brands available elsewhere, and markets those products in a way to further deceive
9 customers into believing that the products are significantly discounted as compared to their
10 prices at other retailers. Lamps Plus utilizes the terms “Compare At” and “Compare” next to a
11 significantly higher reference price – typically over 30% higher – in order to fool customers into
12 believing that competing retailers are selling those exact same products at the higher price.
13 Lamps Plus thereby deceives customers into believing that they are enjoying significant
14 discounts on these (in fact) Exclusive Products as compared to the market price, and tricks
15 customers into believing the products are worth more than they actually are.

16 3. Under Washington law and FTC guidelines, the “Compare At” or “Compare”
17 price must be the price at which other retailers are, in fact, offering that identical product in the
18 marketplace.

19 4. The “Compare At” and “Compare” prices (hereinafter, collectively, the “Compare
20 At” prices) displayed by Lamps Plus are false, deceptive or misleading because Lamps Plus’s
21 Exclusive Products are *never* sold at the higher “Compare At” price by other retailers. In fact,
22 Lamps Plus Exclusive Products are never offered for sale at other retailers at all, because those
23 products are offered only, and exclusively, at Lamps Plus. Lamps Plus also never itself offers its
24 Exclusive Products at the “Compare At” price. The “Compare At” price is simply a made-up
25 price used to inflate the product’s value.

26 5. The Washington Legislature prohibits this deceptive practice and has equipped
27 the Court with multiple tools for remedying Lamps Plus’s unlawful behavior. In addition to
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1 actual damages and costs and attorneys' fees, this Court can and should enter a permanent
2 injunction which polices Lamps Plus's use of reference prices in its advertising.

3 **II. PARTIES**

4 6. Plaintiff Weimin Chen is a citizen of the United States of America and an
5 individual and a natural adult person who currently resides and who at all relevant times in the
6 past resided in the City of Bellevue, King County, Washington State.

7 7. Defendant Lamps Plus, Inc., is a corporation chartered under the laws of the State
8 of California which currently has and at all relevant times in the past has had its headquarters,
9 executive office, principal place of business or nerve center in Chatsworth, California.

10 8. Defendants Doe 1 through Doe 20, inclusive, aided and/or abetted Defendant
11 Lamps Plus, Inc., in such a manner that Doe 1 through Doe 20, inclusive, are each directly,
12 contributorily, vicariously, derivatively and/or otherwise liable for the acts or omissions of
13 Defendant Lamps Plus, Inc. Plaintiff is currently unaware of the true identities of Doe 1 through
14 Doe 20, inclusive; Plaintiff anticipates that, upon learning the true identities of any of Doe 1
15 through Doe 20, inclusive, Plaintiff will either freely amend the operative complaint or request
16 leave from the Court to amend the operative complaint.

17 **III. JURISDICTION AND VENUE**

18 9. This Court has subject matter jurisdiction over this civil action pursuant to,
19 without limitation, Section 6 of Article IV of the Washington State Constitution (Superior Court
20 jurisdiction, generally) and Section 19.86.090 of the Revised Code of Washington (Superior
21 Court jurisdiction over Consumer Protection Act claims).

22 10. This Court has personal jurisdiction over each of the defendants pursuant to,
23 without limitation, Revised Code of Washington section 4.28.185. Defendant Lamps Plus, Inc.,
24 has, without limitation, transacted business within the State of Washington (including, without
25 limitation, operating the www.lampsplus.com website and operating brick-and-mortar Lamps
26 Plus stores in Lynnwood, Washington, and in Tukwila, Washington), and/or has committed
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1 tortious acts within the State of Washington (as alleged, without limitation, throughout this
2 Complaint).

3 11. With regard to the cause of action brought pursuant to the Washington Consumer
4 Protection Act, this Court has personal jurisdiction over each of the defendants pursuant to
5 Revised Code of Washington section 19.86.160. Defendant Lamps Plus, Inc., has engaged in
6 conduct in violation of Chapter 19.86 of the Revised Code of Washington which has had an
7 impact in Washington State which said chapter reprehends.

8 12. Venue is proper in King County Superior Court because, without limitation,
9 Plaintiff Chen resides in King County; a significant portion of the acts giving rise to this civil
10 action occurred in King County; the Lamps Plus store in Tukwila where Mr. Chen made his
11 purchases is located in King County; Defendant Lamps Plus, Inc., intended to and did have a
12 substantial and foreseeable effect on trade or commerce in King County; the acts and omissions
13 of Defendant Lamps Plus, Inc., pled herein affected the prices advertised and paid and the
14 volume of sales or revenues obtained from King County; and/or Defendant Lamps Plus, Inc.,
15 knew or expected that their advertisements would be seen and/or acted upon inside King County.

16 13. Within the jurisdiction of King County Superior Court, this civil action is
17 assigned to the Seattle Case Assignment Area because, without limitation, no defendant resides
18 for these purposes in King County, and Plaintiff resides in the City of Bellevue, King County.

19 **IV. PLAINTIFF'S FACTUAL ALLEGATIONS**

20 14. Plaintiff Weimin Chen, like the typical Lamps Plus customer, does not like to pay
21 full price for products and is a bargain hunter who prefers to buy products at a discount.

22 15. In or around January 2015, while in the State of Washington, Mr. Chen went to
23 the Lamps Plus website to shop for a bathroom light for his home. On the Lamps Plus website,
24 Mr. Chen found and clicked on the product webpage for the Possini Euro Design branded Wave
25 Collection 27" Wide Polished Nickel Bathroom Light, Style #U1740 ("Bathroom Light").

26 16. On this webpage, Mr. Chen saw several representations, including the sale price
27 of \$129.95" in large bold text, next to a picture of the Bathroom Light. Immediately below the
28

1 sale price, Mr. Chen saw “Compare \$254.99.” Below the “Compare \$254.99” reference price
2 was a hyperlink for Lamps Plus’s “Low Price Guarantee.”

3 17. Based on Lamps Plus’s representations and omissions, Mr. Chen reasonably
4 believed the “Possini Euro Design” brand was an independent third-party brand that was offered
5 at competing retailers.

6 18. Based on Lamps Plus’s representations, Mr. Chen reasonably believed that this
7 particular Possini Euro Design product, the “Wave Collection 27” Wide Polished Nickel
8 Bathroom Light,” was offered by competing retailers at the advertised “Compare” price of
9 \$254.99, and reasonably believed that the Lamps Plus sale price of \$129.95 was discounted
10 nearly 50% from the market price for the product.

11 19. Relying on these representations, on or around January 4, 2015, Mr. Chen drove
12 to the Lamps Plus retail store located at 16839 South Center Parkway Tukwila, Washington
13 98188 to look at the Bathroom Light in person. However, that particular Lamps Plus store did
14 have the Bathroom Light in stock at that time. Instead, a salesperson assisted Mr. Chen in special
15 ordering the Bathroom Light such that it would be shipped to the Tukwila store for later pick-up.
16 When Lamps Plus notified Mr. Chen that the Bathroom Light had arrived at the Tukwila store,
17 he went back to pick it up.

18 20. In or around September 2016, while in the State of Washington, Mr. Chen went to
19 the Lamps Plus website to shop for a mirror for one of his rental homes. On the Lamps Plus
20 website, Mr. Chen found and clicked on the product webpage for the Noble Park branded
21 Vernon Espresso 35” High Wood Sink Mirror, Style #Y4799 (“Mirror”).

22 21. On this webpage, Mr. Chen saw several representations, including the sale price
23 of \$149.95” in large bold text, next to a picture of the Mirror. Immediately below the sale price,
24 Mr. Chen saw “Compare \$299.99.” Below the “Compare \$299.99” reference price was a
25 hyperlink for Lamps Plus’s “Low Price Guarantee.”

26 22. Based on Lamps Plus’s representations and omissions, Mr. Chen reasonably
27 believed the “Noble Park” brand was an independent third-party brand that was offered at
28 competing retailers.

1 23. Based on Lamps Plus's representations, Mr. Chen reasonably believed that this
2 particular Noble Park product, the "Vernon Espresso 35" High Wood Sink Mirror," was offered
3 by competing retailers at the advertised "Compare" price of \$299.99, and reasonably believed
4 that the Lamps Plus sale price of \$149.95 was discounted 50% from the market price for the
5 product.

6 24. Relying on these representations, on or around September 7, 2016, Mr. Chen
7 drove to the Lamps Plus retail store located at 16839 South Center Parkway Tukwila,
8 Washington 98188 to look at the Mirror in person. Mr. Chen found the Mirror on the sales floor
9 being offered at the same significantly discounted price offered on the Lamps Plus website of
10 \$149.95. Mr. Chen purchased the Mirror for \$149.95.

11 25. With regard to both of these purchases from Lamps Plus, Mr. Chen believed and
12 understood the "Compare" terminology on the website, and the "Compare At" terminology used
13 on Lamps Plus in-store price tags, to be truthful, consistent and lawful.

14 26. Contrary to Lamps Plus's representations, neither item Mr. Chen purchased was
15 ever previously offered by any retailer at the "Compare" or "Compare At" price (collectively, the
16 "Compare At" price). Every "Compare At" price Lamps Plus advertises is a false reference price
17 that Lamps Plus has simply made up to artificially inflate the value of its products and to create
18 the illusion of a bargain.

19 27. The advertised "Compare At" reference prices were material representations and
20 inducements to Mr. Chen's purchases and to Mr. Chen's decision to become a repeat customer of
21 Lamps Plus.

22 28. Mr. Chen reasonably relied on Lamps Plus's material misrepresentations
23 concerning the purported "Compare At" reference prices. If Mr. Chen had known the truth, he
24 would have acted differently.

25 29. The false or misleading nature of Lamps Plus's "Compare At" reference prices
26 was, at all relevant times, masked or concealed or hidden such that an ordinary consumer
27 exercising reasonable care under all of the circumstances would not have known of or discovered
28 their false or misleading nature.

30. As a direct and proximate result of Lamps Plus's acts and omissions, Mr. Chen was harmed, suffered an injury in fact and has lost money or property.

31. Lamps Plus's false advertising harmed Mr. Chen by causing him to pay more than he otherwise would have paid and to buy more than he otherwise would have bought. Mr. Chen did not enjoy the discounts from the "Compare At" reference prices that Lamps Plus promised him, and the items were not in fact worth the amount that Lamps Plus had represented to him.

32. Lamps Plus's false reference pricing scheme harmed all of its customers by fraudulently increasing demand for all of its products, thereby shifting the demand curve and enabling Lamps Plus to charge all of its customers higher prices than it otherwise could have charged and to generate more sales than it otherwise would have generated.

33. Mr. Chen has a legal right to rely, now and in the future, upon the truthfulness and accuracy of Lamps Plus's representations regarding reference prices. Mr. Chen will be harmed if, in the future, Mr. Chen is left to guess as to whether Lamps Plus is providing accurate reference prices.

34. If Mr. Chen were to purchase again from Lamps Plus without Lamps Plus changing the unlawful conduct alleged herein, Mr. Chen would be harmed on an ongoing basis and/or would be harmed once or more or on an ongoing basis in the future.

35. Plaintiff Chen brings each cause of action in this Complaint on behalf of himself individually, on behalf of the Class (defined below) and as a private attorney general on behalf of the general public.

V. REFERENCE PRICE OVERVIEW

36. A "reference price" is a stated price presented alongside the retailer's actual offering price, which retailers use to convince consumers that they are getting a good deal.

37. Over the past forty years, a substantial body of research on the effects of reference prices (also referred to in the relevant literature as "advertised reference prices," "external reference prices" and "comparative prices") shows that reference prices: (i) impact consumers' perceptions of the value of the sales deal; (ii) impact consumers' willingness to make the

purchase; (iii) decrease consumers' intentions to search for a lower price; and (iv) allow sellers that utilize reference prices to charge higher prices and make increased sales. Consumers form an "internal reference price," also known as an "expected price," an "aspirational price" (a price the consumer would like to pay) or a "normative price" (a price that is "fair"). Consumers store and retrieve the "internal reference price" from memory to judge the merits of a specific price offer. Even where an advertised reference price is exaggerated and not itself completely believed, perceptions of value increase in comparison to a promotion with no advertised reference price. Thus, retailers' use of reference prices influences consumers' "internal reference price" and subsequently, increases consumers' willingness to purchase the product.¹

38. When a reference price is bona fide and truthful, it may help consumers in making informed purchasing decisions. In contrast, consumers are harmed when merchants advertise their products with inflated and false reference prices, because the false reference prices deceive consumers, deprive consumers of a fair opportunity to accurately evaluate the offer, and result in purchasing decisions based on false pretenses.

39. False reference pricing causes consumers to pay more than they otherwise would have paid for products. False reference pricing also fraudulently increases consumer demand for products, enabling retailers to charge higher prices than they otherwise could have charged.

¹ See, e.g., Rajesh Chandrashekar & Dhruv Grewal, *Assimilation of Advertised Reference Prices: The Moderating Role of Involvement*, 79 J. Retailing 53 (2003); Pilsik Choi & Keith S. Coulter, *It's Not All Relative: The Effects of Mental and Physical Positioning of Comparative Prices on Absolute Versus Relative Discount Assessment*, 88 J. Retailing 512 (2012); Larry D. Compeau & Dhruv Grewal, *Comparative Price Advertising: An Integrative Review*, 17 J. Pub. Pol'y & Mktg. 257 (1998); Larry D. Compeau, Dhruv Grewal & Rajesh Chandrashekar, *Comparative Price Advertising: Believe It or Not*, 36 J. Consumer Aff. 284 (2002); David Friedman, *Reconsidering Fictitious Pricing*, 100 Minn. L. Rev. 921 (2016); Dhruv Grewal & Larry D. Compeau, *Consumer Responses to Price and its Contextual Information Cues: A Synthesis of Past Research, a Conceptual Framework, and Avenues for Further Research*, in 3 Rev. of Mktg. Res. 109 (Naresh K. Malhotra ed., 2007); Daniel J. Howard & Roger A. Kerin, *Broadening the Scope of Reference Price Advertising Research: A Field Study of Consumer Shopping Involvement*, 70 J. Mktg. 185 (2006); Aradhna Krishna, Richard Briesch, Donald R. Lehmann & Hong Yuan, *A Meta-Analysis of the Impact of Price Presentation on Perceived Savings*, 78 J. Retailing 101 (2002); Balaji C. Krishnan, Sujay Dutta & Subhash Jha, *Effectiveness of Exaggerated Advertised Reference Prices: The Role of Decision Time Pressure*, 89 J. Retailing 105 (2013); and Tridib Mazumdar, S. P. Raj & Indrahit Sinha, *Reference Price Research: Review and Propositions*, 69 J. Mktg. 84 (2005).

1 40. Beyond the adverse impact upon consumers' welfare, the practice of employing
2 false reference pricing also negatively affects the integrity of competition in retail markets. A
3 retailer's use of false reference prices constitutes an unfair method of competition, injuring
4 honest competitors who use valid and accurate reference prices. Businesses who play by the
5 rules — and the investors in those businesses — are penalized if the unlawful advertising
6 practices of their competitors go unchecked.

7 **VI. LAWS PROHIBITING FALSE REFERENCE PRICING**

8 41. "The [Consumer Protection Act], first enacted in 1961, is Washington's principal
9 consumer protection and antitrust statute. The consumer protection provisions of the CPA were
10 modeled after Section 5 of the Federal Trade Commission Act, 15 U.S.C.A. § 45." Washington
11 Pattern Jury Instruction No. 310.00 (Consumer Protection Act — Introduction).

12 42. The Washington Consumer Protection Act is codified as Chapter 19.86 of the
13 Revised Code of Washington. Its principal substantive provision declares unfair methods of
14 competition and unfair or deceptive acts or practices to be unlawful. RCW 19.86.020. "Private
15 rights of action may now be maintained for recovery of actual damages, costs, and a reasonable
16 attorney's fee. RCW 19.86.090. A private plaintiff may be eligible for treble damages ... Private
17 consumers may obtain injunctive relief, even if the injunction would not directly affect the
18 individual's own rights. RCW 19.86.090." Washington Pattern Jury Instruction No. 310.00
19 (Consumer Protection Act — Introduction).

20 43. The Washington Legislature has declared that the purpose and intent of the
21 Consumer Protection Act "is to complement the body of federal law governing restraints of
22 trade, unfair competition and unfair, deceptive, and fraudulent acts or practices in order to
23 protect the public and foster fair and honest competition. It is the intent of the legislature that, in
24 construing this act, the courts be guided by final decisions of the federal courts and final orders
25 of the federal trade commission interpreting the various federal statutes dealing with the same or
26 similar matters ..." RCW 19.86.920.

1 44. The Federal Trade Commission (FTC) addresses comparison pricing in
 2 16 C.F.R. § 233.2 Retail Price Comparisons; Comparable Value Comparisons. For retail price
 3 comparisons, § 233.2(a) states:

4 Another commonly used form of bargain advertising is to offer goods at
 5 prices lower than those being charged by others for the same merchandise
 6 in the advertiser's trade area (the area in which he does business). This may
 7 be done either on a temporary or a permanent basis, but in either case the
 8 advertised higher price must be based upon fact, and not be fictitious or
 9 misleading. Whenever an advertiser represents that he is selling below the
 10 prices being charged in his area for a particular article, he should be
 11 reasonably certain that the higher price he advertises does not appreciably
 12 exceed the price at which substantial sales of the article are being made in
 13 the area - that is, a sufficient number of sales so that a consumer would
 14 consider a reduction from the price to represent a genuine bargain or saving.
 15 Expressed another way, if a number of the principal retail outlets in the area
 16 are regularly selling Brand X fountain pens at \$10, it is not dishonest for
 17 retailer Doe to advertise: "Brand X Pens, Price Elsewhere \$10, Our Price
 18 \$7.50".

19 16 C.F.R. § 233.2(a) (emphasis added).

20 45. When a retailer is advertising the price charged by other retailers for the same
 21 product, the retailer may lawfully use the terms "Compare" or "Compare At" in its advertising.
 22 *See, e.g., People v. Overstock.com, Inc.*, 12 Cal. App. 5th 1064, 1081 (2017) ("On their face, the
 23 words 'compare' or 'compare at,' without further qualification, communicate to the reader that
 24 the price being compared is for the same, not a different item.").

25 46. Courts have acknowledged the misleading effect that false reference prices have
 26 on customers. For example, the Ninth Circuit in *Hinojos v. Kohl's Corp.*, recognized that
 27 "[m]isinformation about a product's 'normal' price is . . . significant to many consumers in the
 28 same way as a false product label would be." 718 F.3d 1098, 1101 (9th Cir. 2013). The *Hinojos*
 Court also explained:

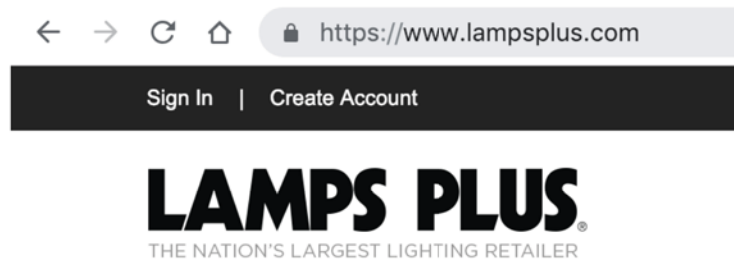
Most consumers have, at some point, purchased merchandise that was
 marketed as being "on sale" because the proffered discount seemed too
 good to pass up. Retailers, well aware of consumers' susceptibility to a
 bargain, therefore have an incentive to lie to their customers by falsely
 claiming that their products have previously sold at a far higher "original"
 price in order to induce customers to purchase merchandise at a purportedly
 marked-down "sale" price. Because such practices are misleading — and
 effective — the California legislature has prohibited them.

718 F.3d at 1101.

47. Ultimately, at a bare minimum, a “Compare At” price must be the price at which that particular product is or has been offered by other retailers.

VII. COMMON FACTUAL ALLEGATIONS OF LAMPS PLUS’S UNLAWFUL SCHEME

48. Defendant Lamps Plus is a popular retailer which bills itself as “The Nation’s Largest Lighting Retailer.” Lamps Plus utilizes this tagline directly below its logo (see the screenshot below taken of the Lamps Plus website on January 4, 2019).



49. Lamps Plus sells a variety of lighting, furniture, and home décor both through its website, www.lampsplus.com, and in its retail stores. Lamps Plus currently operates approximately 39 stores nationwide, with two locations in Washington State.

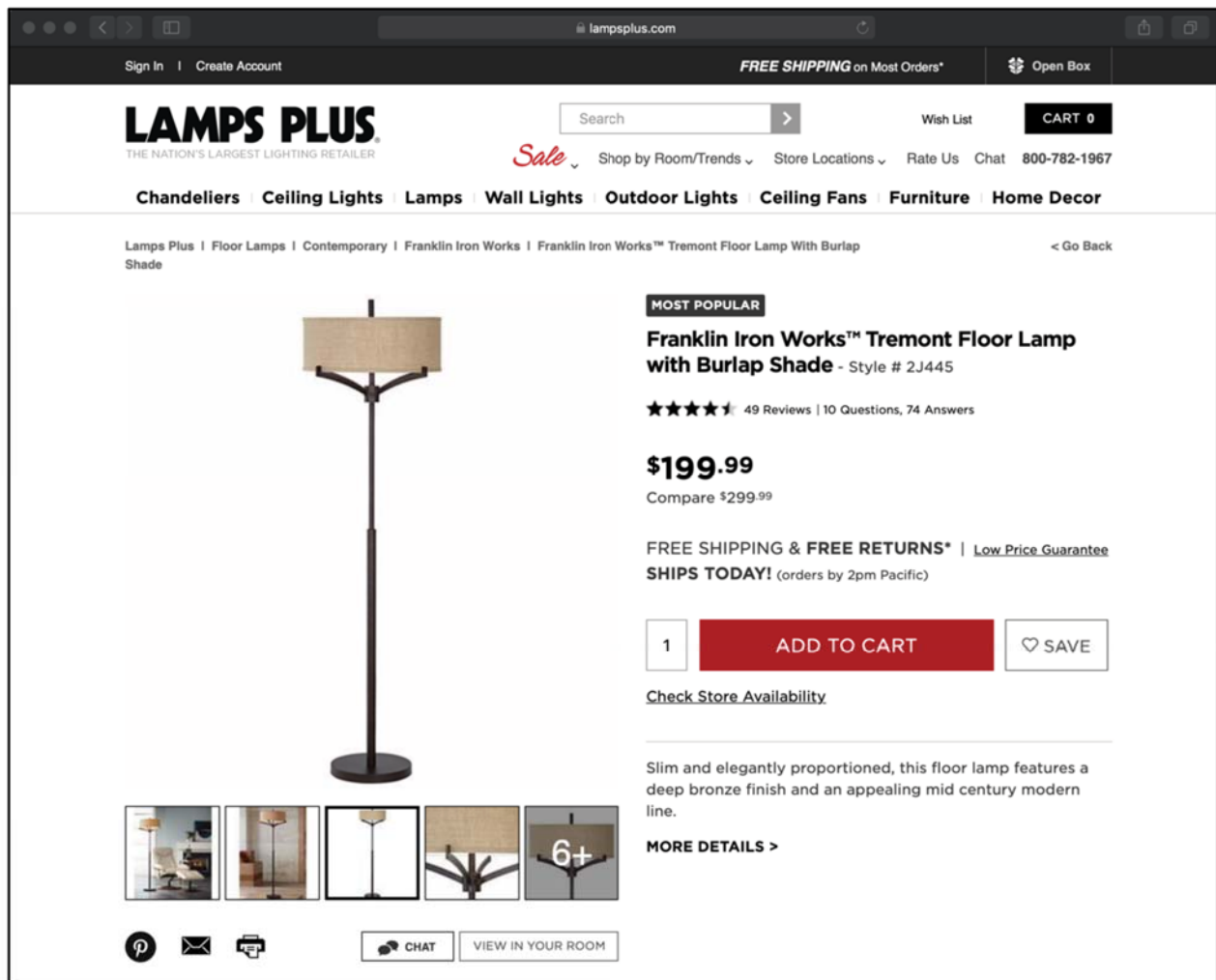
50. While Lamps Plus bills itself as the “Nation’s Largest Lighting Retailer,” in fact a significant portion of the products offered by Lamps Plus, and based on information and belief, a majority of its sales, are products that are proprietary and which are offered for sale exclusively at Lamps Plus and nowhere else (“Exclusive Products”). These Exclusive Products are not readily recognizable by Lamps Plus customers as being exclusive and not available anywhere else. Lamps Plus has registered nearly 40 trademarks—none of which reference “Lamps Plus” in their names—which Lamps Plus utilizes to offer its products under brands which deceptively sound like independent third-party brands that are also offered elsewhere. Examples of Lamps Plus’s trademark names it uses for its Exclusive Products include: Possini Euro Design, Kensington Hill, Noble Park, Barnes and Ivy, Franklin Iron Works, and Regency Hill.²

² A list of trademarks registered or used by Lamps Plus is attached as **Exhibit 1**.

51. Lamps Plus engages in a scheme to defraud its customers by fooling its customers into believing that Lamps Plus is offering its Exclusive Products at a significantly lower price than those same products are being offered at elsewhere by other retailers.

52. Lamps Plus does not disclose on its website or in its stores that these are proprietary brands or that these proprietary products are sold exclusively by Lamps Plus.

53. Lamps Plus advertises *all* of its Exclusive Products on the Lamps Plus website at a purportedly discounted selling price, which is presented alongside a corresponding “Compare” reference price. Below is an example of an individual product webpage for a Lamps Plus Exclusive Product taken from the Lamps Plus website on December 31, 2018:



54. Similarly, in its retail stores, Lamps Plus advertises its Exclusive Products at a purportedly discounted price alongside a corresponding “Compare At” reference price. Below is an example of a Lamps Plus Exclusive Product price tag taken at the Lamps Plus retail store

located at 16839 South Center Parkway Tukwila, Washington 98188 on December 21, 2018. The price tag is for a Possini Euro Design Urban Coffee Torchiere Floor Lamp, Style # 19925:



55. The advertised selling and reference prices are identical both online and in-store; Lamps Plus prices its products the same in both channels.

56. Lamps Plus intends that the “Compare At” price conveys to the customer the purported price at which that same item was or is typically sold by other retailers, in order to create the illusion of a discount. The “Compare At” prices on Lamps Plus’s Exclusive Products are always substantially higher (typically 30% or more) than the price at which Lamps Plus is offering the product for sale.

1 57. Thus, Lamps Plus fools the customer into believing that Lamps Plus is offering its
2 Exclusive Products at a deeply discounted price compared to what other retailers are selling the
3 identical product for. However, this is a lie.

4 58. Lamps Plus's Exclusive Products are *never* sold at the higher "Compare At" price
5 by other retailers because only Lamps Plus sells its Exclusive Products. Further, Lamps Plus
6 never offers its Exclusive Products at the "Compare At" price. The "Compare At" price is simply
7 a made-up price used to inflate the product's value.

8 59. Notably, Lamps Plus does not utilize the "Compare At" language for its non-
9 exclusive products whose prices actually *could* be compared by its customers to the prices
10 offered by competing retailers. Lamps Plus deviously only utilizes the "Compare At" term for
11 products whose prices in fact *are impossible to compare* to that product's price in the wider
12 marketplace—because all of the products advertised with a "Compare At" price are, in fact,
13 Exclusive Products available *nowhere else*.

14 60. Lamps Plus further perpetuates this illusion of discounts on Exclusive Products by
15 prominently displaying a "Low Price Guarantee" on every Exclusive Product offer webpage on
16 its website. (See the screenshot above for an example).

17 61. Clicking on the "Low Price Guarantee" link, and then on a "View Policy" link,
18 displays the details of the Low Price Guarantee, available at: [https://www.lampsplus.com/help-](https://www.lampsplus.com/help-and-policies/our-120-price-protection-policy.aspx)
19 [and-policies/our-120-price-protection-policy.aspx](https://www.lampsplus.com/help-and-policies/our-120-price-protection-policy.aspx).

20 62. Lamps Plus promises that if the consumer finds the *identical* product available
21 elsewhere for a lower price, it will refund the difference plus 20% (which it also calls its "120%
22 Price Protection Policy"). On the Low Price Guarantee terms webpage, Lamps Plus says it wants
23 you to shop Lamps Plus "with the confidence that we offer the best prices anywhere!"

24 63. But Lamps Plus then sets forth a number of conditions that must be met before
25 Lamps Plus will honor its Low Price Guarantee on these (in fact) Exclusive Products, including:
26 (a) the product being compared at the competing retailer must be the "*identical* product"; and (b)
27 "our low price guarantee applies only to the *exact same item* from the same manufacturer with
28

1 the same options. ‘Same’ is defined as an item of the same styling and product SKU Style #, by
 2 the same manufacturer.” (Emphasis added.)

3 64. Remarkably, by Lamps Plus’s own terms, and contrary to its representations to its
 4 customers, it is, in fact, *impossible for a customer to ever utilize the Low Price Guarantee for*
 5 *any of Lamps Plus’s Exclusive Products* because only Lamps Plus sells its Exclusive Products—
 6 the customer will never find the identical product advertised at competing retailers. Lamps
 7 Plus’s sole purpose and intent of displaying its “Low Price Guarantee” on the product webpages
 8 of its Exclusive Products, and in its stores, is to further its illegal scheme, by deceiving the
 9 consumer into believing that the exact same item is offered by competitors at a much higher
 10 price, as compared to Lamps Plus’s purportedly “discounted” price.

11 65. Meanwhile, Lamps Plus never defines or explains what the “Compare At” price
 12 means on its website or in its stores. On the Lamps Plus website, there is no definition of the
 13 term anywhere on the site. On individual product webpages, there is no hyperlink or qualifier
 14 next to the “Compare” language which explains its meaning. In Lamps Plus retail stores, there is
 15 no signage explaining what “Compare At” means. Nor is there any explanation of what
 16 “Compare At” means on the individual price tags for Lamps Plus’s Exclusive Products. Based on
 17 information and belief, sales representatives at Lamps Plus stores, when asked, explain to
 18 customers that the “Compare At” price is the price at which other retailers sell that exact same
 19 item.

20 66. However, under Washington law and FTC Guidelines, “Compare At” must refer
 21 to what offering prices are for *the exact same item* to not be false or misleading because that is
 22 what a reasonable consumer understands retail price comparison terms such as “Compare At” or
 23 “Compare” to mean. Even Lamps Plus, itself, defines “Compare At” this way in its Low Price
 24 Guarantee by requiring the comparison item to be the *exact same item* from the *same*
 25 *manufacturer* with the *same SKU*.

26 67. Lamps Plus follows a double standard for how it defines “Compare At”: one
 27 definition for itself and another for its customers, always in its favor. When it comes to its Low
 28 Price Guarantee, Lamps Plus defines “Compare At” very strictly and consistent with what the

1 FTC and courts have said it means: the selling price offered by competing retailers for that
2 identical product. Lamps Plus does so to ensure that its supposed “price guarantee” can never
3 actually be utilized on any of its Exclusive Products, which comprise the majority of its sales and
4 profits. Yet, in its advertising, in order to create the illusion of a discount, Lamps Plus uses
5 “Compare At” loosely and deceptively in violation of these guidelines and the law. Lamps Plus
6 invents its “Compare At” prices out of whole cloth; Lamps Plus utilizes the “Compare At”
7 language *only* for its Exclusive Products, i.e., *only* for products for which it is in fact *impossible*
8 to honestly list a “Compare At” price because no other retailer in the world offers that identical
9 product for sale.

10 68. In sum, this is a scheme by Lamps Plus to fool consumers into thinking that its
11 Exclusive Products are being offered by Lamps Plus at a significant discount compared to the
12 prices at which its competitors offer those same products. Lamps Plus has invented brand names
13 for these products that lead customers into believing that these exclusive and proprietary
14 products are third-party brands which are available at other competitors. Lamps Plus invents its
15 “Compare At” prices out of whole cloth to create the illusion of a significant discount. Lamps
16 Plus furthers this illegal scheme by pretending to protect purchasers of its Exclusive Products
17 with its Low Price Guarantee, when in fact the Low Price Guarantee is impossible to utilize,
18 according to its own terms, because Lamps Plus’s Exclusive Products are not available anywhere
19 else and thus cannot be compared with prices anywhere else.

20 69. The false reference price representations by Lamps Plus were material to
21 Washington consumers’ decision to purchase each Exclusive Product. Because of the “Compare
22 At” reference price representations, Washington consumers reasonably believed that Lamps Plus
23 was offering these products at a significantly lower price compared to other retailers, and
24 consumers purchased these products from Lamps Plus on the basis of these representations in
25 order to enjoy the stated dollar savings.

26 70. Lamps Plus advertised inflated “Compare At” prices in order to make consumers
27 think the products were worth much more than they actually were.
28

1 71. Lamps Plus advertised fraudulent “Compare At” prices in order to trick its
2 customers into paying more than they otherwise would have paid.

3 72. The false or misleading nature of Lamps Plus’s “Compare At” reference pricing
4 was, at all relevant times, masked or concealed or hidden such that an ordinary Washington
5 consumer exercising reasonable care under all of the circumstances would not have known of or
6 discovered their false or misleading nature.

7 73. As a direct and proximate result of Lamps Plus’s acts and omissions, all
8 Washington consumers who have purchased a Lamps Plus Exclusive Product that was advertised
9 by Lamps Plus with a false or misleading “Compare At” reference price have been harmed, have
10 suffered an injury in fact, and have lost money or property.

11 74. Lamps Plus continues to display false “Compare At” reference prices on its
12 Exclusive Products to this day. There is no reason to believe that Lamps Plus will voluntarily and
13 permanently cease its unlawful practices.

14 75. In acting toward Washington consumers and the general public in the manner
15 alleged herein, Lamps Plus acted with and was guilty of malice, fraud and/or oppression.

16 76. Each cause of action pled in this Complaint is pled solely to the extent that: each
17 Defendant is primarily engaged in the business of selling goods or services; and each cause of
18 action arises from a statement or conduct by a Defendant in which (a) the statement or conduct
19 consists of representations of fact about each Defendant’s business operations, goods, or
20 services, that is made for the purpose of obtaining approval for, promoting, or securing sales of,
21 or commercial interest in, each Defendant’s goods or services, or the statement or conduct was
22 made in the course of delivering each Defendant’s goods or services, and (b) the intended
23 audience is an actual or potential buyer or customer or a person likely to repeat the statement to,
24 or otherwise influence, an actual or potential buyer or customer.

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VIII. CLASS ACTION ALLEGATIONS

77. Plaintiff Chen brings this class-action lawsuit on behalf of himself and the members of the following class (the “Class”):

All persons who purchased in the State of Washington within the applicable limitations period from Lamps Plus, Inc., one or more Lamps Plus proprietary and exclusive products which Lamps Plus, Inc., advertised or promoted by displaying or otherwise disseminating a “Compare” or “Compare At” reference price.

78. Specifically excluded from the Class are each defendant, any entity in which a defendant has a controlling interest or which has a controlling interest in a defendant, a defendant’s agents and employees and attorneys, the bench officers to whom this civil action is assigned, and the members of each bench officer’s staff and immediate family.

79. *Numerosity.* Plaintiff does not know the exact number of Class members but is informed and believes that the Class easily comprises 10,000 Washington State residents and could, by the date of entry of Judgment, number in excess of 20,000 Washington State residents. As such, Class members are so numerous that joinder of all members is impracticable.

80. *Commonality and predominance.* Well-defined, nearly identical legal or factual questions affect the members of the Class. These questions predominate over questions that might affect individual Class members. These common questions include, but are not limited to, the following:

- a. Lamps Plus’s policies and actions regarding its use of reference price advertising regarding its Exclusive Products;
- b. The accuracy of Lamps Plus’s advertised reference prices regarding its Exclusive Products;
- c. Lamps Plus’s branding and/or intent in branding of proprietary products;
- d. Whether the pled conduct of Lamps Plus causes injury to the business or property of consumers;
- e. Whether the pled conduct of Lamps Plus is injurious to the public interest;
- f. Whether Lamps Plus should be ordered to pay damages or disgorge unjust enrichment; and

1 g. Whether Lamps Plus should be enjoined from further engaging in the
2 misconduct alleged herein.

3 81. The prosecution of separate actions by individual members of the Class would
4 create a risk of inconsistent or varying adjudications with respect to individual members of the
5 Class which would establish incompatible standards of conduct for the party opposing the class.

6 82. The party opposing the Class has acted or refused to act on grounds generally
7 applicable to the Class, thereby making appropriate final injunctive relief or corresponding
8 declaratory relief with respect to the Class as a whole.

9 83. **Typicality.** Plaintiff's claims are typical of Class members' claims. Plaintiff and
10 Class members all sustained injury as a result of Defendants' practices and schemes.

11 84. **Adequacy.** Plaintiff will fairly and adequately protect Class members' interests.
12 Plaintiff has no interests antagonistic to Class members' interests. Plaintiff has retained counsel
13 who has considerable experience and success in prosecuting complex class action and consumer
14 protection cases.

15 85. **Superiority.** A class action is the superior method for fairly and efficiently
16 adjudicating this controversy for the following reasons, without limitation:

17 a. Class members' interests are relatively small compared to the burden and
18 expense required to litigate each of their claims individually, so it would be impracticable for
19 Class members to seek individual redress for each defendant's illegal and deceptive conduct;

20 b. Even if Class members could afford individual litigation, the court system
21 could not. Individual litigation creates the potential for inconsistent or contradictory judgments
22 and increases the delay and expense to all parties and to the court system. By contrast, a class
23 action presents far fewer management difficulties and provides the benefits of single
24 adjudication, economy of scale, and comprehensive supervision by a single court; and

25 c. Plaintiff anticipates no unusual difficulties in managing this class action.
26
27
28

CAUSES OF ACTION

COUNT I

**Violation of the Washington Consumer Protection Act
(RCW Chapter 19.86)
AGAINST DEFENDANT LAMPS PLUS, INC.
AND DEFENDANT DOES 1 TO 20**

86. Plaintiff realleges and incorporates by reference Paragraphs 1 through 85, inclusive, as though alleged in full in this Count.

87. The Washington Consumer Protection Act is codified as Chapter 19.86 of the Revised Code of Washington. Its principal substantive provision declares unfair methods of competition and unfair or deceptive acts or practices to be unlawful. RCW 19.86.020. “Private rights of action may now be maintained for recovery of actual damages, costs, and a reasonable attorney’s fee. RCW 19.86.090. A private plaintiff may be eligible for treble damages ... Private consumers may obtain injunctive relief, even if the injunction would not directly affect the individual’s own rights. RCW 19.86.090.” Washington Pattern Jury Instruction No. 310.00 (Consumer Protection Act — Introduction).

88. The acts and omissions of Defendant Lamps Plus and Does 1 through 20, inclusive, constitute unfair methods of competition and/or unfair or deceptive acts or practices which directly or indirectly affect the people of the State of Washington and which have injured Plaintiff Weimin Chen and the members of the Class in his or her or its business or property and been the cause of said injury.

89. Defendant Lamps Plus and Does 1 through 20, inclusive, engage in the conduct of trade or commerce. For example, and without limitation, Defendant Lamps Plus engages in the sale of assets (including the tangible personal property that the defendant sells) and engaged in commerce directly or indirectly affecting the people of the State of Washington.

90. As a direct, substantial and/or proximate result of these violations, Plaintiff and the members of the Class suffered injury to business or property. Plaintiff and the members of the Class paid more than they otherwise would have paid for the products they purchased from the defendants and they bought more than they otherwise would have bought from the

1 defendants. The defendants' false reference pricing scheme fraudulently increased demand from
2 consumers, enabling them to charge higher prices than they otherwise could have charged.

3 91. The acts and/or omissions of each defendant pled herein are injurious to the
4 public interest because said acts and/or omissions: violate a statute that incorporates Chapter
5 19.86 of the Revised Code of Washington, violate a statute that contains a specific legislative
6 declaration of public interest impact, injures other persons, had the capacity to injure other
7 persons, and/or has the capacity to injure other persons.

8 92. The unlawful acts and omissions pled herein were committed in the course of the
9 defendants' business. The unlawful acts and omissions pled herein were, are and continue to be
10 part of a pattern or generalized course of conduct. The unlawful acts and omissions pled herein
11 were repeatedly committed prior to the acts involving Plaintiff Chen. There is a real and
12 substantial potential for repetition of the defendants' conduct after the acts involving Plaintiff
13 Chen; indeed, the conduct continues to this day with regard to many consumers. This Complaint
14 is not based upon a single transaction. The acts and omission of the defendants pled herein were
15 and are not reasonable in relation to the development and preservation of business.

16 93. The defendants should be ordered to pay actual damages to Plaintiff and to the
17 members of the Class in an amount at least equal to all monies improperly accepted, received or
18 retained.

19 94. The defendants should, either in the alternative or cumulatively or otherwise, be
20 ordered to disgorge or make restitution of all monies improperly accepted, received or retained.

21 95. The balance of the equities favors the entry of permanent injunctive relief against
22 the defendants. Plaintiff, the members of the Class and the general public will be irreparably
23 harmed absent the entry of permanent injunctive relief against the defendants. Plaintiff, the
24 members of the Class and the general public lack an adequate remedy at law. A permanent
25 injunction against the defendants is in the public interest. The defendants' unlawful behavior is
26 ongoing as of the date of the filing of this pleading; absent the entry of a permanent injunction,
27 the defendants' unlawful behavior will not cease and, in the unlikely event that it voluntarily
28 ceases, is likely to reoccur.

COUNT II

**Permanent Public Injunctive Relief
(RCW § 19.86.093)
AGAINST DEFENDANT LAMPS PLUS, INC.,
AND DEFENDANTS DOES 1 TO 20**

96. Plaintiff realleges and incorporates by reference Paragraphs 1 through 85, inclusive, as though alleged in full in this Count.

97. This is a private action in which an unfair or deceptive act or practice is alleged under Section 19.86.020 of the Revised Code of Washington.

98. The acts and omissions of Defendant Lamps Plus and Does 1 through 20, inclusive, constitute unfair methods of competition and/or unfair or deceptive acts or practices which directly or indirectly affect the people of the State of Washington and which have injured Plaintiff Chen and the members of the Class in his or her or its business or property and been the cause of said injury.

99. Defendant Lamps Plus and Does 1 through 20, inclusive, engage in the conduct of trade or commerce. For example, and without limitation, Defendant Lamps Plus engages in the sale of assets (including the tangible personal property that the defendant sells) and engaged in commerce directly or indirectly affecting the people of the State of Washington.

100. As a direct, substantial and/or proximate result of these violations, Plaintiff Chen and the members of the Class suffered injury to business or property. Plaintiff Chen and the members of the Class paid more than they otherwise would have paid for the products they purchased from the defendants and they bought more than they otherwise would have bought from the defendants. The defendants' false reference pricing scheme fraudulently increased demand from consumers, enabling them to charge higher prices than they otherwise could have charged.

101. The acts and/or omissions of each defendant pled herein are injurious to the public interest because said acts and/or omissions: violate a statute that incorporates Chapter 19.86 of the Revised Code of Washington, violates a statute that contains a specific legislative declaration of public interest impact, injures other persons, had the capacity to injure other

1 persons, and/or has the capacity to injure other persons.

2 102. The unlawful acts and omissions pled herein were committed in the course of the
3 defendants' business. The unlawful acts and omissions pled herein were, are and continue to be
4 part of a pattern or generalized course of conduct. The unlawful acts and omissions pled herein
5 were repeatedly committed prior to the acts involving Plaintiff Chen. There is a real and
6 substantial potential for repetition of the defendants' conduct after the acts involving Plaintiff
7 Chen; indeed, the conduct continues to this day with regard to many consumers. This Complaint
8 is not based upon a single transaction.

9 103. The defendants have an affirmative duty under the law to advertise their products
10 in a manner which is not false, deceptive or misleading. Plaintiff Chen and the rest of the public
11 should not be put to the burden of having to guess or take extraordinary efforts to ascertain
12 which representations made by a defendant in its advertising are true or false, accurate or
13 misleading. Mr. Chen and the general public have the right to assume that all of the defendant's
14 advertising conforms with the law.

15 104. If not enjoined by order of this Court, the defendants will or may continue to
16 injure Plaintiff Chen and consumers through the misconduct alleged herein. Without the entry of
17 a permanent injunction, the defendants' unlawful behavior is capable of repetition, re-occurrence
18 or increase.

19 105. The balance of the equities favors the entry of permanent injunctive relief against
20 the defendants. Plaintiff Chen, the members of the Class and the general public will be
21 irreparably harmed absent the entry of permanent injunctive relief against the defendants.
22 Plaintiff Chen, the members of the Class and the general public lack an adequate remedy at law.
23 A permanent injunction against the defendants is in the public interest. The defendants' unlawful
24 behavior is ongoing as of the date of the filing of this pleading; absent the entry of a permanent
25 injunction, the defendants' unlawful behavior will not cease and, in the unlikely event that it
26 voluntarily ceases, is likely to reoccur or is otherwise capable of reoccurring.

PRAYER FOR RELIEF

Plaintiff WEIMIN CHEN, on behalf of himself individually, on behalf of a class composed of all others similarly situated and/or as a private attorney general seeking the imposition of public injunctive relief, hereby respectfully requests that this Court order relief and enter judgment against Defendant Lamps Plus, Inc., and Defendants Does 1 through 20, inclusive, individually and/or jointly and/or severally and/or as otherwise appropriate, as follows:

A. That the Court enter an order certifying the proposed Class and appointing Plaintiff and his counsel to represent the Class;

B. For damages, including actual damages to Plaintiff and the Class in an amount to be determined at trial but which is more than \$100,000 and which is estimated to be \$10 million;

C. For additional damages up to an amount not to exceed three times the actual damages sustained by the Plaintiff and the members of the Class up to any applicable statutory maximum, which is estimated to be \$30 million;

D. For disgorgement or restitution, including, without limitation, disgorgement of all revenues, profits and/or unjust enrichment that each defendant obtained, directly or indirectly, from Plaintiff and the members of the Class or otherwise as a result of the unlawful conduct alleged herein, which is more than \$100,000 and which is estimated to be \$10 million;

E. For nominal damages;

F. For an order that each defendant be permanently enjoined from the unlawful conduct alleged herein;

G. For an order that each defendant must, on its websites, in-store advertising, and all communications to the public, limit use of the terms “Compare” or “Compare At” to comparisons with the identical product;

H. An order that, to the extent that the “Compare At \$xx.xx” or any similar language adjacent to or describing a reference price on each product webpage links to or launches a disclosure, then the “Compare At \$xx.xx” or any similar language shall, on each product webpage, be rendered in a manner which makes it obvious to the ordinary consumer exercising reasonable care that the language is a hyperlink;

I. An order that each defendant maintain records for at least two years from the date of advertisement of the source of the reference price for auditing purposes to ensure compliance with the ordered injunctive relief;

J. An order that the Court retain jurisdiction to police each defendant's compliance with the permanent injunctive relief;

K. For pre-judgment and/or post-judgment interest to the extent allowed by law;

L. For attorneys' fees to the extent allowed by law;

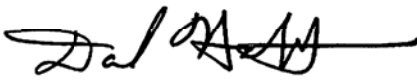
M. For costs to the extent allowed by law; and/or

N. Such other relief as the Court deems just and proper including, without limitation, temporary or preliminary or permanent injunctive relief.

DATED this 4th day of January, 2019.

Presented by:

HATTIS & LUKACS

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