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

CHRISTOPHER BROWN, on behalf of
himself and all others similarly situated,

Plaintiff,

vs.

HUGO BOSS RETAIL INC., a Delaware
corporation, and DOES 1- 50, inclusive,

Defendants.

Case No. '21CV1687 H MDD

CLASS ACTION COMPLAINT

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

DEMAND FOR JURY TRIAL

1 Plaintiff Christopher Brown (“Plaintiff”) brings this action, on behalf of himself and
2 all others similarly situated, against Defendant Hugo Boss Retail Inc. (“Hugo Boss” or
3 “Defendant”), and states:

4 **I. NATURE OF THE ACTION**

5 1. American consumers thrive on finding the best deal. Retailers, including
6 Defendant, are keen to this fact and try to lure consumers to purchase their goods with
7 advertised sales that promise huge savings off the regular price. But the promised savings
8 are false if a retailer simply recasts its regular price as a discount from some higher, fictitious
9 “original” price that no one ever pays. This class action seeks monetary damages,
10 restitution, declaratory and injunctive relief from Defendant arising from its deceptive
11 business practice of advertising fictitious reference prices and corresponding phantom
12 discounts on Hugo Boss branded outlet merchandise sold in Defendant’s outlet stores in
13 California.

14 2. The practice of false reference pricing occurs when a retailer fabricates a false
15 “original” price, and then offers an item for sale at a deeply “discounted” price. The result
16 is a sham price disparity that misleads consumers into believing they are receiving a good
17 deal and induces them into making a purchase. In reality, the practice artificially inflates the
18 true market price for these items by raising consumers’ internal reference price, and
19 therefore the value, ascribed to these products by consumers. The practice enables retailers,
20 like Defendant, to sell their goods above their true market price. Consumers are damaged
21 by the inflated market price that is established by the false-discounting scheme.

22 3. An overview of the illegal scheme and attendant harm are best demonstrated
23 by the following example: Take a retailer who is in the business of selling suits. That retailer
24 knows it can sell a particular suit at \$250.00. That \$250.00 price represents the “market”
25 price for the suit and the price at which the retailer regularly offers the suit for sale and
26 makes a profit. The retailer then offers the suit on sale. However, instead of discounting
27 the suit from its true original price of \$250.00, the retailer utilizes an inflated, “original”
28 price for the suit and lists it at \$1,000.00, and then holds it out for sale at **70% off**—rendering

1 the “*sale*” price of the suit \$300.00. Consumers who happen upon that purported fake “sale”
2 are influenced by the amount of the perceived, substantial discount. By presenting the
3 consumer with a false “original” price of \$1,000.00, the retailer has increased demand for
4 the suit through the *perceived value* of both the suit itself and the substantial discount of
5 \$700.00. This effect, in turn, impacts the market price of the suit because more consumers
6 are willing to pay \$300.00 for a suit they believed was once sold for \$1,000.00, when, in
7 fact, the true market price of the suit, without the false discount, was \$250.00. If the retailer
8 tried to sell that same suit, for \$300.00, *without* offering the false original price of \$1,000.00
9 and the attendant 70% off discount, that retailer would not be able to sell any suits at \$300.00
10 because the true market price of the suit is \$250.00. Thus, through the use of a false original
11 price and the corresponding phantom discount of 70% off, the retailer was able create a
12 false “market” price for the suit—at \$300.00. Plaintiff’s case seeks that disparity—the
13 impact on the increase in market price from \$250.00 to \$300.00 through Defendant’s
14 application of an illegal discounting scheme.

15 4. Retailers, including Defendant, substantially benefit from employing false
16 reference pricing schemes and experience increased sales because consumers use advertised
17 reference prices to make purchase decisions. The information available to consumers varies
18 for different types of products, but consumers frequently lack full information about a
19 product and, as a result, can incorporate information from sellers to make purchase
20 decisions.

21 5. Through its false and misleading marketing, advertising, and pricing scheme
22 alleged herein, Hugo Boss violated, and continues to violate, California and federal law
23 which prohibit the advertisement of goods for sale discounted from former prices that are
24 false. California and federal law also prohibit the dissemination of misleading statements
25 about the existence and amount of price reductions. Specifically, Defendant violated, and
26 continues to violate: California’s Unfair Competition Law, CAL. BUS. & PROF. CODE
27 §§ 17200, *et seq.* (the “UCL”); California’s False Advertising Law, CAL. BUS. & PROF.
28 CODE §§ 17500, *et seq.* (the “FAL”); the California Consumer Legal Remedies Act, CAL.

1 CIV. CODE §§ 1750, *et seq.* (the “CLRA”); and the Federal Trade Commission Act
2 (“FTCA”), which prohibits “unfair or deceptive acts or practices in or affecting commerce”
3 (15 U.S.C. § 45(a)(1)) and false advertisements (15 U.S.C. § 52(a)).

4 6. Plaintiff brings this action on behalf of himself and other similarly situated
5 consumers who have purchased one or more Hugo Boss branded outlet products from a
6 Hugo Boss outlet store in California that was deceptively represented as discounted from a
7 false reference price. Plaintiff seeks to halt the dissemination of this false, misleading, and
8 deceptive pricing scheme, to correct the false and misleading perception it has created in
9 the minds of consumers, and to obtain redress for those who have purchased merchandise
10 tainted by this deceptive pricing scheme. Plaintiff also seeks to enjoin Defendant from
11 using false and misleading misrepresentations regarding former price comparisons in its
12 labeling and advertising permanently. Further, Plaintiff seeks to obtain damages, restitution,
13 and other appropriate relief in the amount by which Defendant was unjustly enriched as a
14 result of its sales of merchandise offered at a false discount.

15 7. Finally, Plaintiff seeks reasonable attorneys’ fees pursuant to CAL. CIV. PROC.
16 CODE § 1021.5, as this lawsuit seeks the enforcement of an important right affecting the
17 public interest and satisfies the statutory requirements for an award of attorneys’ fees.

18 **II. JURISDICTION AND VENUE**

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

23 9. The Southern District of California has personal jurisdiction over Defendant
24 because Defendant is a corporation or other business entity which conducts business in the
25 State of California. Defendant conducts sufficient business with sufficient minimum
26 contacts in California, and/or otherwise intentionally avails itself to the California market
27 through the operation of the Hugo Boss outlet stores within the State of California.

1 10. Venue is proper under 28 U.S.C. § 1391(b)(2) because Defendant transacts
2 substantial business in this District, and a substantial part of the events giving rise to
3 Plaintiff's claims arose here.

4 III. GENERAL ALLEGATIONS

5 A. Retailers Benefit from False Reference Pricing Schemes.

6 11. Defendant engages in a false and misleading reference price scheme in the
7 marketing and selling its products in its Hugo Boss outlet stores.

8 12. Retailers substantially benefit from employing false reference pricing schemes
9 and experience increased sales because consumers use advertised reference prices to make
10 purchase decisions. The information available to consumers varies for different types of
11 products,¹ but consumers frequently lack full information about a product and, as a result,
12 can incorporate information from sellers to make purchase decisions.²

13 13. Defendant's deceptive advertised reference prices are thus incorporated into
14 the consumer's decision process. First, a product's "price is also used as an indicator of
15 product quality."³ In other words, consumers view Defendant's deceptive advertised
16 reference prices as a proxy for product quality. Second, reference prices "appeal[] to
17
18

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

27 ² "Not only do consumers lack full information about the prices of goods, but their
28 information is probably even poorer about the quality variation of products simply because
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.

³ Grewal, Dhruv, and Larry D. Compeau. "Comparative price advertising: Informative or
deceptive?" *Journal of Public Policy & Marketing* (1992): 52-62, p. 54. Also see Thaler,
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 consumers' desire for bargains or deals."⁴ Academic researchers note how consumers
 2 "sometimes expend more time and energy to get a discount than seems reasonable given the
 3 financial gain involved," and "often derive more satisfaction from finding a sale price than
 4 might be expected on the basis of the amount of money they actually save."⁵ Under this
 5 concept, coined as "transaction utility" by Noble Prize-winning economist Richard Thaler,
 6 consumers place some value on the psychological experience of obtaining a product at a
 7 perceived bargain.⁶

8 14. 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 infrequently purchased products, external
 15 reference prices can be particularly influential because these consumers have little or no

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 prior internal reference.¹⁰ In other words, “[t]he deceptive potential of such advertised
 2 reference prices are likely to be considerably higher for buyers with less experience or
 3 knowledge of the product and product category.”¹¹ Academic literature further reports that
 4 “there is ample evidence that consumers use reference prices in making brand choices”¹²
 5 and publications 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 15. Retailers, including Defendant, understand that consumers are susceptible to a
 14 good bargain, and therefore, Defendant has a substantial financial interest in making the
 15 consumer believe they are receiving a good bargain, even if they are not. A product’s
 16 reference price matters to consumers because it serves as a baseline upon which consumers
 17 perceive a product’s value.

18 **B. California State and Federal Pricing Regulations Prohibit False “Original
 19 price” references and Out-Dated “Original price” references.**

20 16. Under California law, a retailer may only discount an item from its own
 21 *original price* for up to 90 days; or in the alternative, it may offer a discount from the
 22 original price of an item being offered by a competitor, within the relevant market, for up
 23 to 90 days. In either scenario, a retailer can only offer a “sale” from an original price for
 24 90 days. At that point, on day 91, the retailer has two options: the product must either return

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

28 ¹¹ 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.

¹² Kalyanaram, Gurumurthy, and Russell S. Winer. “Empirical Generalizations from
 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.

1 to its full original price, or the retailer may continue to sell the product at the discounted
 2 price, as long as it discloses to the consumer the date on which the product was last offered
 3 for sale at its full retail price. See BUS. & PROF. CODE § 17501. Under California law, a
 4 retailer cannot use an old, outdated, “original price” as the basis for a sale or discount unless
 5 it discloses to the consumer the date on which the prior original price was offered in the
 6 market.

7 17. Additionally, under the FTCA, when a retailer offers a discount from its own,
 8 former **original price**, the original price is required to have been a price at which the retailer
 9 held that item out for sale on a regular basis, for a commercially reasonable period of time.
 10 See 16 C.F.R. § 233.1(a) and (b) (emphasis added).

11 **C. Defendant’s Fraudulent Price Discounting Scheme Violates California**
 12 **State and Federal Regulations.**

13 18. Defendant advertises merchandise for sale by listing on the merchandise’s price
 14 tag *two* fictitious and misleading reference prices: 1) a “compare at” price, printed with a
 15 “strikethrough” (e.g., \$128.00), and 2) a further discounted “USD price,” which appears
 16 alongside a “_% off” sign that takes an additional “discount” from the already “reduced”
 17 “USD price.” These seeming discounts from higher reference prices convey to consumers,
 18 including to Plaintiff, “the product’s worth and the prestige that ownership of the product
 19 conveys.” *Hinojos v. Kohl’s Corp.*, 718 F.3d 1098 (9th Cir. 2013) (citing Dhruv Grewal &
 20 Larry D. Compeau, Comparative Price Advertising: Informative or Deceptive?, 11 J. Pub.
 21 Pol’y & Mktg. 52, 55 (Spring 1992) (“By creating an impression of savings, the presence of
 22 a higher reference price enhances subjects’ perceived value and willingness to buy the
 23 product.”). “Misinformation about a product’s ‘normal’ price is...significant to many
 24 consumers in the same way as a false product label would be.” *Hinojos*, 718 F.3d at 1106.

25 19. The reason why the “compare at” price and the “USD” reference prices are
 26 either false or misleading is because Hugo Boss either: 1) has never offered the outlet goods
 27 for sale at the “compare at” price or the “USD price” (in the case of its “made for outlet”
 28 merchandise), or 2) has offered the outlet merchandise for sale at their “compare at” price

1 or the “USD price” at some time period in the distant past—in violation of the 90 day time
2 period afforded it to discount merchandise under California law¹⁴ and the federal regulation
3 requiring the discount to be presented from a recent, regularly offered, original price.

4 20. Additionally, Hugo Boss is not offering a discount or a percentage off (% off)
5 a competitor’s price for goods offered for sale in the relevant market. In the case of its
6 “made for outlet” products, there are no other retailers who sell those goods; they are
7 exclusively sold by Hugo Boss outlets. In the case of its out of season merchandise, the
8 Hugo Boss merchandise being offered at its outlet stores is not offered at any other relevant
9 market competitors in the 90-day time period preceding the sale because it is old and
10 outdated.

11 21. How the scheme works: on all merchandise sold in the Hugo Boss outlet stores,
12 Defendant represents to consumers a “compare at” price on the product’s price tag, along
13 with a discounted “USD price.” Defendant further discounts these products by signs
14 appearing next to the products with a bolded “_% off ticketed price” (e.g., “30% off”). Thus,
15 consumers believe these already “discounted” products are being offered at an additional
16 sale. The represented discounts are advertised on placards placed at, on, or above the
17 particular products being discounted. They are printed on white card stock with black print
18 offering the advertised “_% off”. The placards appear as follows:



28 ¹⁴ If Hugo Boss continued to offer a discount from an original price, beyond the 90-day time period afforded it under California law, it was required to disclose the date on which the original prices were last offered. Hugo Boss does not make any such disclosure.

1 22. The “compare at” price and the reduced “USD price” reference prices thus
2 represent to consumers the merchandise’s original price, while the “sale” price denotes to
3 consumers a significantly discounted price, or savings from the regular higher reference
4 prices.

5 23. However, at no time is the outlet merchandise ever offered for sale at the
6 “compare at” or “USD price.” Every product in the store is discounted from an original
7 price, the minute it hits the floor.

8 24. Defendant’s perpetual discounting of the Hugo Boss outlet merchandise
9 constitutes false, fraudulent, and deceptive advertising because the original reference prices
10 listed are substantially higher than those prices ever actually offered by Defendant in its
11 outlet stores. The reference prices are used exclusively as a benchmark from which the false
12 discount and corresponding “sale” price is derived. Defendant’s scheme has the effect of
13 tricking consumers into believing they are getting a significant deal by purchasing
14 merchandise at a steep discount, when, in reality, consumers are paying for merchandise at
15 its usual retail price. Defendant’s deceptive pricing scheme further artificially raises the
16 prices actually paid by consumers by creating the false impression of a bargain.

17 25. Defendant’s outlet-only-merchandise is *never* offered for sale, nor actually
18 sold, at its advertised reference prices. Similarly, “out of season” Hugo Boss merchandise,
19 that may have been previously offered for sale at other retailers or online, is never offered
20 for sale at Hugo Boss outlet stores, at its advertised reference prices, within 90 days of that
21 price being offered in the market. Upon information and belief, “out of season” Hugo Boss
22 merchandise is a small percentage of its outlet stores’ total inventory and is typically several
23 years removed from being marketed at the original price, if ever.

24 26. Nowhere in Defendant’s outlet stores does Defendant disclose that the
25 reference or original prices used are not: 1) former prices; or 2) are not recent (within
26 90 days), regularly offered former prices; or 3) prices at which identical products are sold
27 elsewhere in the market. Nor does Hugo Boss disclose the date at which the original prices
28 were offered in the market or by one of Hugo Boss’ other retailers. The omission of these

1 disclosures, coupled with Defendant's use of fictitious advertised reference prices, renders
2 Defendant's outlet pricing inherently misleading.

3 27. Thus, the advertised reference prices are false and induce consumers into
4 believing that the merchandise was once sold at the reference price, and will be again if the
5 consumer does not make a purchase at the "bargain" price. Defendant engages in this
6 practice knowing full-well that the advertised products are never actually offered or sold at
7 the advertised reference prices, or never actually offered or sold at the advertised reference
8 prices within 90 days of them being discounted in the Hugo Boss outlet store.

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

16 29. Thus, Defendant's scheme intends to, and does, provide misinformation to the
17 customer. This misinformation communicates to consumers, including Plaintiff, that the
18 products sold in Defendant's outlets have a greater value than the advertised discounted price.

19 **D. Investigation**

20 30. An investigation of Hugo Boss outlet stores conducted by Plaintiff's counsel
21 ("Plaintiff's Investigation") revealed that Defendant's outlet store merchandise is priced
22 uniformly. That is, Hugo Boss outlet merchandise sold at Hugo Boss outlet stores bears a
23 price tag with a false "compare at" reference price, along with a substantially discounted
24 sale price, appearing as "USD price." Defendant further advertises its outlet merchandise
25 as an "additional _% off." Plaintiff's Investigation confirmed that the merchandise
26 purchased by Plaintiff was priced with a false reference price and a corresponding
27 discounted price for at least the 90-day period immediately preceding Plaintiff's purchase
28 in violation of California law and the FTCA.

1 31. Plaintiff’s counsel’s investigators cataloged the pricing practices of Hugo Boss
2 outlet stores across California, including in San Francisco (San Francisco Premium Outlets),
3 Los Angeles (Citadel Outlets) and San Diego (Las Americas Premium Outlets), from July to
4 November of 2017, and again from February to May of 2019. Plaintiff’s Investigation
5 revealed that items listed for sale in the outlets were never offered for sale at either their full
6 “compare at” reference price or their “USD” reference price. Plaintiff’s counsel’s
7 investigators visited Hugo Boss outlet stores consistently throughout the investigation
8 period to verify the prices being offered on Defendant’s outlet merchandise. The prices were
9 uniform across all stores visited in California. All items, including the product purchased
10 by Plaintiff, in the Hugo Boss outlet stores were priced at a discount in the 90 days prior to
11 Plaintiff’s purchase of his men’s medium-blue button-up dress shirt. A sample of the
12 products tracked, which remained continuously discounted throughout the observed period,
13 include Purple / White striped button up long sleeve; Blue / White striped button up long
14 sleeve; Solid Navy Pattern button up long sleeve; Maroon pattern button up long sleeve
15 dress shirt; Solid Grey button up long sleeve dress shirt; Solid Blue Long Sleeve button up
16 dress shirt; and Solid Navy Long Sleeve button up dress shirt. *See* Exhibit A, 2019
17 Investigation Summary.

18 32. Additionally, Plaintiff’s Investigation attempted to locate the items sold at the
19 Hugo Boss outlet stores in other distribution channels in the relevant market. For example,
20 in San Diego, Plaintiff’s Investigation verified that the merchandise sold at Hugo Boss
21 outlet stores, was *not* the same as Hugo Boss merchandise presented for sale at commonly
22 known retailers such as Nordstrom, Nordstrom Rack, Macy’s, Bloomingdales, Ross Dress
23 for Less, TJ Max, or Kohl’s. Plaintiff’s Investigation compared the items tracked in the
24 Hugo Boss outlet stores to Hugo Boss merchandise offered for sale at the aforementioned
25 retailers on a monthly basis during the course of the investigation.

26 33. Thus, the “compare at” reference price and the discounted “USD” reference
27 price on the Hugo Boss merchandise sold at the Hugo Boss outlet stores, including the
28 “compare at” reference price and the discounted “USD” reference price listed on the button-

1 up dress shirt Plaintiff purchased, are either false original prices or severely outdated prices
2 that have not been offered in the relevant market or at a Hugo Boss store for at least the
3 three months (90 days) immediately preceding Plaintiff's purchase.

4 34. The false reference price and corresponding discount price scheme were both
5 uniform and identical on almost all of the merchandise sold at Defendant's outlet stores.
6 The only thing that changed was the requisite “_% off” on certain merchandise items.

7 35. The fraudulent pricing scheme applies to all Hugo Boss outlet merchandise
8 offered on sale at Defendant's California outlet stores, including the button-up dress shirt
9 purchased by Plaintiff.

10 IV. PARTIES

11 Plaintiff

12 36. Plaintiff resides in San Diego County, California. Plaintiff, in reliance on
13 Defendant's false and deceptive advertising, marketing and discounting pricing schemes,
14 purchased a men's medium blue button-up dress shirt from Defendant's outlet store located
15 at the Las Americas Premium Outlets, 4141 Camino De La Plaza, Suite #466, San Diego,
16 CA 92173, on May 20, 2019. Plaintiff examined several men's apparel products at
17 Defendant's San Diego outlet store before making a final decision on the medium blue
18 button-up dress shirt after reviewing the items' advertised sale prices. The button-up dress
19 shirt purchased by Plaintiff was advertised with a “USD Price” of \$120.00, marketed at a
20 34% discount. Plaintiff ultimately purchased the button-up dress shirt for \$79.00
21 (\$41.00 off). During his time at Defendant's San Diego outlet store on May 20, 2019,
22 Plaintiff noticed numerous signs within the store advertising a “_% off” over items
23 throughout the store. Plaintiff noticed that most, if not all, items in the store were
24 accompanied by an in-store sign purporting to represent a “_% off.”

25 37. After observing the “compare at” and “USD” retail prices of the items and the
26 accompanying sale prices, Plaintiff believed he was receiving a significant discount on the
27 item he chose to purchase. Because he liked the item and felt that the discounted price would
28 likely not last, and that he was getting a significant bargain, he proceeded to the register and

1 purchased the men's medium blue button-up dress shirt. The advertised reference prices and
2 corresponding "sale price" of the item led Plaintiff to believe that he was purchasing
3 authentic Hugo Boss merchandise that was previously available at Hugo Boss retail stores
4 or other retail stores at the advertised reference prices, or sold formerly for that price at the
5 outlet store. He paid a pre-tax total of \$79.00.

6 38. However, the product Plaintiff purchased, like all the products available at
7 California Hugo Boss outlet stores, was never offered for sale at the listed reference prices
8 on the price tag and certainly not within the 90 days preceding Plaintiff's purchase. Neither
9 Plaintiff's receipt nor any in-store signage observed or relied upon by Plaintiff indicated to
10 him that the men's button-up dress shirt was not offered previously at the advertised
11 reference price at the Hugo Boss outlet store or elsewhere.

12 39. At the time of his purchase, Plaintiff was also unaware that products sold in
13 Defendant's outlet store were manufactured for sale specifically and exclusively at Hugo
14 Boss outlet stores and that the products are never sold anywhere else. Neither Plaintiff's
15 receipt, nor in-store signage, nor information listed on the price tags suggested that the
16 products were exclusive.

17 40. Plaintiff was damaged in his purchase because Defendant's false reference
18 price discounting scheme inflated the true market value of the button-up dress shirt he
19 purchased. Despite being misled by Defendant with respect to the product he purchased,
20 Plaintiff lacks personal knowledge as to Defendant's specific pricing practices relating to
21 all its California outlet merchandise. Consequently, Plaintiff is susceptible to reoccurring
22 harm because he cannot be certain that Defendant has corrected its deceptive pricing
23 scheme, and he desires to continue to purchase Hugo Boss outlet merchandise from Hugo
24 Boss California outlet stores, assuming that he could determine whether he was receiving
25 authentic Hugo Boss products at a true bargain. However, he currently cannot trust that
26 Defendant will label and/or advertise the merchandise truthfully and in a non-misleading
27 fashion in compliance with applicable law. Plaintiff simply does not have the resources to
28 ensure that Defendant is complying with California and federal law with respect to its

1 pricing, labeling and advertising of its California outlet merchandise. An injunction is the
2 only form of relief which will guarantee Plaintiff and other consumers the appropriate
3 assurances.

4 41. Additionally, because of the wide selection of merchandise available and
5 Defendant's California outlet stores, the fact that there are numerous items of outlet
6 merchandise involved in Defendant's deceit, and due to the likelihood that Defendant may
7 yet develop and market additional outlet merchandise items for sale at its California outlet
8 stores, Plaintiff may again, though by mistake, purchase a falsely discounted product from
9 Defendant under the impression that the advertised reference price represents a *bona fide*
10 former price at which the item was previously offered for sale by Defendant. Indeed,
11 Plaintiff regularly shops at outlet stores, including Defendant's, and he desires to continue
12 purchasing merchandise from Hugo Boss outlet stores in the future. Moreover, Class
13 members will continue to purchase the Hugo Boss California outlet merchandise,
14 reasonably, but incorrectly, believing that its advertised reference prices represent *bona fide*
15 former prices at which the merchandise was previously offered for sale by Defendant.

16 42. Accordingly, Plaintiff, Class members and the general public lack an adequate
17 remedy at law. Absent an equitable injunction enjoining Defendant from continuing in the
18 unlawful course of conduct alleged herein, Plaintiff, Class members and the public will be
19 irreparably harmed and denied an effective and complete remedy because they face a real
20 and tangible threat of future harm emanating from Defendant's ongoing conduct, which
21 cannot be remedied with monetary damages.

22 43. Moreover, Plaintiff lacks an adequate remedy at law with respect to his claim
23 for equitable restitution because he has not yet retained an expert to determine whether an
24 award of damages can or will adequately remedy his monetary losses caused by Defendant.
25 Particularly, as legal damages focus on remedying the loss to the plaintiff, and equitable
26 restitution focuses wholly distinctly on restoring monies wrongly acquired by the defendant,
27 legal damages are inadequate to remedy Plaintiff's loss because Plaintiff does not know at
28 this juncture, and is certainly not required to set forth evidence, whether a model for legal

1 damages (as opposed to equitable restitution) will be viable or will adequately compensate
2 Plaintiff's losses.

3 44. Finally, Plaintiff's case is substantially predicated on Defendant's violations
4 of CAL. BUS. & PROF. CODE § 17501, an equitable claim, as Plaintiff's Investigation
5 revolved around ensuring that Defendant did not sell outlet merchandise within the 90 days
6 preceding Plaintiff's purchase and, likewise, that Defendant failed to disclose to consumers
7 the date on which outlet merchandise was last offered at its advertised reference price. This
8 claim and test of liability go to the heart of Plaintiff's case and the same test is not available
9 under a CLRA legal claim for damages. Thus, Plaintiff does *not* have an adequate remedy
10 at law because the CLRA does not provide the same metric of liability as CAL. BUS. & PROF.
11 CODE § 17501, which is integral not only to Plaintiff's prayer for restitution, but also to
12 Plaintiff's very theory of liability at trial. Accordingly, Plaintiff may set forth alternate
13 claims for legal damages and equitable restitution.

14 **Defendant**

15 45. Plaintiff is informed and believes, and upon such information and belief
16 alleges, Defendant is a Delaware corporation with its principal executive offices at 55 Water
17 Street, 48th Floor, New York, NY 10041. Plaintiff is informed and believes that Defendant
18 operates Hugo Boss outlet stores in California and advertises, markets, distributes, and/or
19 sells clothing and clothing accessories in California and throughout the United States.
20 Plaintiff is further informed and believes and thereon alleges that Defendant is the American
21 branch subsidiary of parent Hugo Boss AG, which is headquartered in Metzingen,
22 Germany, and functions as Defendant's corporate parent.

23 46. Plaintiff does not know the true names or capacities of the persons or entities
24 sued herein as Does 1-50, inclusive, and therefore sues such defendants by such fictitious
25 names. Plaintiff is informed and believes, and upon such information and belief alleges,
26 that each of the Doe defendants is in some manner legally responsible for the damages
27 suffered by Plaintiff and the Class members as alleged herein. Plaintiff will amend his
28

1 Complaint to set forth the true names and capacities of these defendants when they have
2 been ascertained, along with appropriate charging allegations, as may be necessary.

3 47. The reference prices listed and advertised on products sold at Defendant's
4 outlet stores are false or severely outdated reference prices, utilized only to perpetuate
5 Defendant's false discount scheme.

6 48. Defendant knows that its reference price advertising is false, deceptive,
7 misleading, and unlawful under California and federal law.

8 49. Defendant fraudulently concealed from, and intentionally failed to disclose to,
9 Plaintiff and other members of the Class the truth about its advertised discount prices and
10 former reference prices.

11 50. At all relevant times, Defendant has been under a duty to Plaintiff and the Class
12 to disclose the truth about its false discounts.

13 51. Plaintiff reasonably relied upon Defendant's artificially inflated reference
14 prices and false discounts when purchasing the men's button-up dress shirt from
15 Defendant's outlet store in San Diego, California. Plaintiff would not have made such
16 purchase but for Defendant's representations regarding the substantial discounts being
17 offered on the merchandise. Plaintiff would like to continue shopping at Defendant's outlet
18 stores in the future but cannot be certain of the veracity of Defendant's advertised bargains.

19 52. Plaintiff and the Class reasonably and justifiably acted and relied on the
20 substantial price differences that Defendant advertised, and made purchases believing that
21 they were receiving a substantial discount on an item of greater value than it actually was.
22 Plaintiff, like other Class members, was lured in, relied on, and was damaged by the
23 deceptive pricing scheme that Defendant carried out

24 **v. CLASS ALLEGATIONS**

25 53. Plaintiff brings this action on behalf of himself and all other similarly situated
26 Class members pursuant to Rule 23(a), (b)(2) and (b)(3) of the Federal Rules of Civil
27 Procedure and seeks certification of the following Class against Defendant for violations of
28 California state laws:

1 All persons, within the State of California, who, within the preceding four
2 years (the “Class Period”), purchased from a California Hugo Boss outlet
3 store one or more products at a purported discount from an advertised
“reference” price and who have not received a refund or credit for their
purchase(s).

4 54. Excluded from the Class is Defendant, as well as its officers, employees, agents
5 or affiliates, parent companies and/or subsidiaries, and each of their respective officers,
6 employees, agents or affiliates, and any judge who presides over this action. Plaintiff
7 reserves the right to expand, limit, modify, or amend this Class definition, including the
8 addition of one or more subclasses, in connection with his motion for Class certification, or
9 at any other time, based upon, *inter alia*, changing circumstances and/or new facts obtained
10 during discovery.

11 55. **Numerosity:** The Class members are so numerous that joinder of all members
12 is impracticable. Plaintiff is informed and believes that the proposed Class contains
13 hundreds of thousands of individuals who have been damaged by Defendant’s conduct as
14 alleged herein. The precise number of Class members is unknown to Plaintiff.

15 56. **Existence and Predominance of Common Questions of Law and Fact:** This
16 action involves common questions of law and fact, which predominate over any questions
17 affecting individual Class members. These common legal and factual questions include,
18 but are not limited to, the following:

19 a. whether, during the Class Period, Defendant used falsely advertised
20 reference prices on its outlet products labels and falsely advertised price discounts on
21 merchandise sold in its outlet stores;

22 b. whether, during the Class Period, the reference prices advertised by
23 Defendant were the prevailing market prices for the products in question during the
24 three months period preceding the dissemination and/or publication of the advertised
25 former prices;

26 c. whether Defendant’s alleged conduct constitutes violations of the laws
27 asserted;

28

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

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

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

6 g. whether an injunction is necessary to prevent Defendant from
7 continuing to use false, misleading or illegal price comparison.

8 57. **Typicality:** Plaintiff's claims are typical of the claims of the Class members
9 because, *inter alia*, all Class members have been deceived (or were likely to be deceived)
10 by Defendant's false and deceptive price advertising scheme, as alleged herein. Plaintiff is
11 advancing the same claims and legal theories on behalf of himself and all Class members.

12 58. **Adequacy:** Plaintiff will fairly and adequately protect the interests of the Class
13 members. Plaintiff has retained counsel experienced in complex consumer class action
14 litigation, and Plaintiff intends to prosecute this action vigorously. Plaintiff has no
15 antagonistic or adverse interest to those of the Class.

16 59. **Superiority:** The nature of this action and the nature of laws available to
17 Plaintiff and the Class make the use of the class action format a particularly efficient and
18 appropriate procedure to afford relief to him and the Class for the wrongs alleged. The
19 damages or other financial detriment suffered by individual Class members is relatively
20 modest compared to the burden and expense that would be entailed by individual litigation
21 of their claims against Defendant. It would thus be virtually impossible for Plaintiff and
22 Class members, on an individual basis, to obtain effective redress for the wrongs done to
23 them. Absent the class action, Class members and the general public would not likely
24 recover, or would not likely have the chance to recover, damages or restitution, and
25 Defendant will be permitted to retain the proceeds of its fraudulent and deceptive misdeeds.

26 60. All Class members, including Plaintiff, were exposed to one or more of
27 Defendant's misrepresentations or omissions of material fact claiming that former reference
28 prices advertised prices were legitimate. Due to the scope and extent of Defendant's

1 consistent false sale prices and advertising scheme, disseminated in a years-long campaign
2 to California consumers, it can be reasonably inferred that such misrepresentations or
3 omissions of material fact were uniformly made to all members of the Class. In addition, it
4 can be reasonably presumed that all Class members, including Plaintiff, affirmatively acted
5 in response to the representations contained in Defendant’s false advertising scheme when
6 purchasing merchandise sold at Defendant’s outlet stores.

7 61. Plaintiff is informed that Defendant keeps extensive computerized records of
8 its Hugo Boss outlet customers through, inter alia, customer loyalty programs and general
9 marketing programs. Defendant has one or more databases through which a significant
10 majority of Class members may be identified and ascertained, and it maintains contact
11 information, including email and home addresses, through which notice of this action could
12 be disseminated in accordance with due process requirements.

13 **VI. CAUSES OF ACTION**

14 **FIRST CAUSE OF ACTION**
15 **Violation of California’s Unfair Competition Law (“UCL”)**
CAL. BUS. & PROF. CODE §§ 17200, et seq.

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

18 63. The UCL defines “unfair business competition” to include any “unlawful,
19 unfair or fraudulent” act or practice, as well as any “unfair, deceptive, untrue or misleading”
20 advertising. CAL. BUS. PROF. CODE § 17200.

21 64. The UCL imposes strict liability. Plaintiff need not prove that Defendant
22 intentionally or negligently engaged in unlawful, unfair, or fraudulent business practices—
23 but only that such practices occurred.

24 **“Unfair” Prong**

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

1 66. Defendant’s actions constitute “unfair” business practices because, as alleged
2 above, Defendant engaged in misleading and deceptive price comparison advertising that
3 represented false reference prices and corresponding deeply discounted phantom “sale”
4 prices. Defendant’s acts and practices offended an established public policy of transparency
5 in pricing, and engaged in immoral, unethical, oppressive, and unscrupulous activities that
6 are substantially injurious to consumers.

7 67. The harm to Plaintiff and Class members outweighs the utility of Defendant’s
8 practices. There were reasonably available alternatives to further Defendant’s legitimate
9 business interests other than the misleading and deceptive conduct described herein.

10 ***“Fraudulent” Prong***

11 68. A business act or practice is “fraudulent” under the UCL if it is likely to
12 deceive members of the consuming public.

13 69. Defendant’s acts and practices alleged above constitute fraudulent business
14 acts or practices, as they deceived Plaintiff and are highly likely to deceive members of the
15 consuming public. Plaintiff relied on Defendant’s fraudulent and deceptive representations
16 regarding its false reference prices and corresponding phantom discounts on products sold
17 at Defendant’s outlets. These misrepresentations played a substantial role in Plaintiff’s
18 decision to purchase the product at purportedly steep discounts, and Plaintiff would not have
19 purchased the product without Defendant’s misrepresentations.

20 ***“Unlawful” Prong***

21 70. A business act or practice is “unlawful” under the UCL if it violates any other
22 law or regulation.

23 71. Defendant’s act and practices alleged above constitute unlawful business acts
24 or practices, as it has violated state and federal law in connection with its deceptive pricing
25 scheme. The FTCA prohibits “unfair or deceptive acts or practices in or affecting commerce”
26 (15 U.S.C. § 45(a)(1)) and prohibits the dissemination of any false advertisements. 15 U.S.C.
27 § 52(a). Under the FTC, false former pricing schemes, similar to the ones implemented by
28 Defendant, are described as deceptive practices that would violate the FTCA:

1 (a) One of the most commonly used forms of bargain advertising is to offer a
2 reduction from the advertiser’s own former price for an article. If the former
3 priced is the actual, bona fide price at which the article was offered to the
4 public on a regular basis for a reasonably substantial period of time, it provides
5 a legitimate basis for the advertising of a price comparison. Where the former
6 price is genuine, the bargain being advertised is a true one. If, on the other
7 hand, the former price being advertised is not bona fide but fictitious – for
8 example, where an artificial, inflated price was established for the purpose
9 of enabling the subsequent offer of a large reduction – the “bargain” being
10 advertised is a false one; the purchaser is not receiving the unusual value he
11 expects. In such a case, the “reduced” price is, in reality, probably just the
12 seller’s regular price.

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

20 16 C.F.R. § 233.1(a) and (b) (emphasis added).

21 72. In addition to federal law, California law also expressly prohibits false former
22 pricing schemes. The FAL, BUS. & PROF. CODE § 17501, entitled “*Worth or value;
23 statements as to former price,*” states:
24

25 For the purpose of this article the worth or value of any thing advertised is the
26 prevailing market price, wholesale if the offer is at wholesale, retail if the offer
27 is at retail, at the time of publication of such advertisement in the locality
28 wherein the advertisement is published.

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

CAL. BUS. & PROF. CODE § 17501 (emphasis added).

73. 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.”

1 74. The violation of any law constitutes an “unlawful” business practice under the
2 UCL.

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

5 76. Defendant’s practices, as set forth above, have misled Plaintiff, the proposed
6 Class, and the public in the past, and will continue to mislead in the future. Consequently,
7 Defendant’s practices constitute an unlawful, fraudulent, and unfair business practice within
8 the meaning of the UCL.

9 77. Defendant’s violation of the UCL, through its unlawful, unfair, and fraudulent
10 business practices, are ongoing and present a continuing threat that Class members and the
11 public will be deceived into purchasing products based on price comparisons of arbitrary
12 and inflated “reference” prices and substantially discounted “sale” prices. These false
13 comparisons created phantom markdowns and lead to financial damage for consumers like
14 Plaintiff and the Class.

15 78. Pursuant to the UCL, Plaintiff is entitled to preliminary and permanent
16 injunctive relief and an order for Defendant to cease this unfair competition, as well as
17 disgorgement and restitution to Plaintiff and the Class of all Defendant’s revenues
18 associated with its unfair competition, or such portion of those revenues as the Court may
19 find equitable.

20 **SECOND CAUSE OF ACTION**
21 **Violation of California’s False Advertising Law (“FAL”)**
22 **CAL. BUS. & PROF. CODE §§ 17500, *et seq.***

23 79. Plaintiff repeats and re-alleges the allegations contained in every preceding
24 paragraph as if fully set forth herein.

25 80. CAL. BUS. & PROF. CODE § 17500 provides:

26 It is unlawful for any...corporation...with intent...to dispose of...personal
27 property...to induce the public to enter into any obligation relating thereto, to
28 make or disseminate or cause to be made or disseminated...from this state
before the public in any state, in 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...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 81. The “intent” required by section 17500 is the intent to dispose of property, and
3 not the intent to mislead the public in the disposition of such property.

4 82. Similarly, this section provides:

5 No price shall be advertised as a former price of any advertised thing, unless
6 the alleged former price was the prevailing market price...within three
7 months next immediately preceding the publication of the advertisement or
unless the date when the alleged former price did prevail is clearly, exactly,
and conspicuously stated in the advertisement.

8 CAL BUS. & PROF. CODE § 17501.

9 83. Defendant’s routine of advertising discounted prices from false “reference”
10 prices, which were never the prevailing market prices of those products and were materially
11 greater than the true prevailing prices (i.e., Defendant’s actual sale price), was an unfair,
12 untrue, and misleading practice. This deceptive marketing practice gave consumers the
13 false impression that the products were regularly sold on the market for a substantially
14 higher price than they actually were, therefore, leading to the false impression that the
15 products sold at Defendant’s outlet stores were worth more than they actually were.

16 84. Defendant misled consumers by making untrue and misleading statements and
17 failing to disclose what is required by the Code, as alleged above.

18 85. As a direct and proximate result of Defendant’s misleading and false
19 advertisements, Plaintiff and Class members have suffered injury in fact and have lost
20 money. As such, Plaintiff requests that this Court order Defendant to restore this money to
21 Plaintiff and all Class members, and to enjoin Defendant from continuing these unfair
22 practices in violation of the UCL in the future. Otherwise, Plaintiff, Class members, and
23 the broader general public will be irreparably harmed and/or denied an effective and
24 complete remedy.

25 **THIRD CAUSE OF ACTION**
26 **Violation of California’s Consumers Legal Remedies Act (“CLRA”),**
CAL. CIV. CODE § 1750, et seq.

27 86. Plaintiff repeats and re-alleges the allegations contained in every preceding
28 paragraph as if fully set forth herein.

1 87. This cause of action is brought pursuant to the CLRA, CAL. CIV. CODE § 1750,
2 *et seq.* Plaintiff and each member of the proposed Class are “consumers” as defined by CAL.
3 CIV. CODE § 1761(d). Defendant’s sale of merchandise in its outlets to Plaintiff and the
4 Class were “transactions” within the meaning of CAL. CIV. CODE § 1761(e). The products
5 purchased by Plaintiff and the Class are “goods” within the meaning of CAL. CIV. CODE
6 § 1761(a).

7 88. Defendant violated and continues to violate the CLRA by engaging in the
8 following practices proscribed by CAL. CIV. CODE § 1770(a) in transactions with Plaintiff
9 and the Class which were intended to result in, and did result in, the sale of merchandise
10 sold in its California outlet stores:

11 (13) Making false or misleading statements of fact concerning reasons for,
12 existence of, or amounts of price reductions.

13 89. Pursuant to § 1782(a) of the CLRA, on or about September 28, 2021,
14 Plaintiff’s counsel notified Defendant in writing by certified mail of the particular violations
15 of § 1770 of the CLRA, and demanded that it rectify the problems associated with the
16 actions detailed above and give notice to all affected consumers of Defendant’s intent to
17 act.

18 90. If Defendant fails to respond to Plaintiff’s letter, fails to agree to rectify the
19 problems associated with the actions detailed above, or fails to give notice to all affected
20 consumers within 30 days of the date of written notice, as prescribed by section 1782,
21 Plaintiff will move to amend his Complaint to pursue claims for actual, punitive, and
22 statutory damages, as appropriate against Defendant. As to this cause of action, at this time,
23 Plaintiff seeks only injunctive relief.

24 VII. PRAYER FOR RELIEF

25 Wherefore, Plaintiff, on behalf of himself and on behalf of the other members of the
26 Class, requests that this Court award relief against Defendant as follows:

27 a. an order certifying the Class and designating Plaintiff as the Class
28 Representative and his counsel as Class Counsel;

1 b. awarding restitution and disgorgement of all profits and unjust
2 enrichment that Defendant obtained from Plaintiff and the Class members as a result
3 of its unlawful, unfair, and fraudulent business practices described herein;

4 c. awarding declaratory and injunctive relief as permitted by law or equity,
5 including: enjoining Defendant from continuing the unlawful practices as set forth
6 herein, and directing Defendant to identify, with Court supervision, victims of its
7 misconduct and pay them all money they are required to pay;

8 d. order Defendant to engage in a corrective advertising campaign;

9 e. awarding attorneys’ fees and costs; and

10 f. for such other and further relief as the Court may deem necessary or
11 appropriate.

12 **VIII. DEMAND FOR JURY TRIAL**

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

14 Dated: September 28, 2021

CARLSON LYNCH LLP

15 By: /s/ Todd D. Carpenter

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