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10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **COUNTY OF SAN DIEGO**

12 EMILY CHEBUL, individually and on
behalf of all others similarly situated,

13 *Plaintiff,*

14 v.

15 TUFT & NEEDLE, LLC,

16 *Defendant.*
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Case No. 25CU059198N

CLASS ACTION COMPLAINT

1. False Advertising Law
2. Consumer Legal Remedies Act
3. Unfair Competition Law
4. Breach of Contract
5. Breach of Express Warranty
6. Quasi-Contract/Unjust Enrichment
7. Negligent Misrepresentation
8. Intentional Misrepresentation

Jury Trial Demanded

General Jurisdiction – Civil

Table of Contents

1

2 I. Introduction..... 3

3 II. Parties..... 6

4 III. Jurisdiction and Venue..... 6

5 IV. Facts. 6

6 A. Defendant’s fake prices and fake discounts..... 7

7 B. Defendant’s purported regular prices were not the prevailing market prices during

8 the 90 days immediately preceding Defendant’s advertisement of the purported

9 discount. 14

10 C. Defendant’s advertisements are unfair, deceptive, and unlawful. 15

11 D. Defendant’s advertisements harm consumers..... 17

12 E. Plaintiff was misled by Defendant’s misrepresentations. 17

13 F. Defendant breached its contract with and warranties to Ms. Chebul and the

14 putative class. 19

15 G. No adequate remedy at law..... 20

16 V. Class action allegations..... 21

17 VI. Claims. 22

18 First Cause of Action: Violation of California’s False Advertising Law, Bus. & Prof.

19 Code §§ 17500 & 17501 et. seq..... 22

20 Second Cause of Action: Violation of California’s Consumer Legal Remedies Act 24

21 Third Cause of Action: Violation of California’s Unfair Competition Law 26

22 Fourth Cause of Action: Breach of Contract 28

23 Fifth Cause of Action: Breach of Express Warranty 29

24 Sixth Cause of Action: Quasi-Contract/Unjust Enrichment 30

25 Seventh Cause of Action: Negligent Misrepresentation 31

26 Eighth Cause of Action: Intentional Misrepresentation..... 31

27 VII. Prayer for Relief..... 32

28

1 **I. Introduction.**

2 1. Advertised “sale” prices are important to consumers. Consumers are more likely to
3 purchase an item if they know that they are getting a good deal. Further, if consumers think that a sale
4 will end soon, they are likely to buy now, rather than wait, comparison shop, and buy something else.

5 2. While there is nothing wrong with a legitimate sale, a fake one—that is, one with made-
6 up regular prices, made-up discounts, and made-up expirations—is deceptive and illegal.

7 3. Section 17500 of California’s False Advertising Law prohibits businesses from making
8 statements they know or should know to be untrue or misleading. Cal. Bus. & Prof. Code § 17500. This
9 includes statements falsely suggesting that a product is on sale, when it actually is not.

10 4. Moreover, section 17501 of California’s False Advertising Law provides that “[n]o price
11 shall be advertised as a former price ... unless the alleged former price was the prevailing market price
12 ... within three months next immediately preceding” the advertising. Cal. Bus. & Prof. Code § 17501.
13 So, in addition to generally prohibiting untrue and misleading fake discounts, it also specifically
14 prohibits this particular flavor of fake discount (where the advertised former price is not the prevailing
15 price during the specified timeframe).

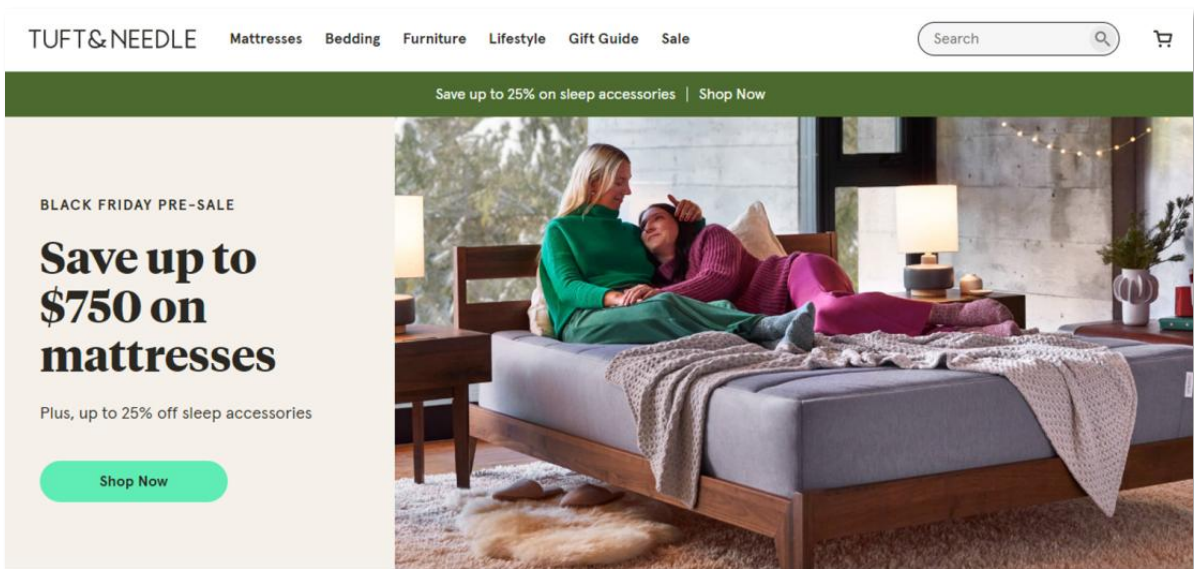
16 5. In addition, California’s Consumer Legal Remedies Act prohibits “advertising goods or
17 services with the intent not to sell them as advertised” and specifically prohibits “false or misleading
18 statements of fact concerning reasons for, existence of, or amounts of price reductions.” Cal. Civ. Code
19 § 1770(a)(9), (13).

20 6. Moreover, the Federal Trade Commission’s regulations prohibit false or misleading
21 “former price comparisons,” for example, making up “an artificial, inflated price ... for the purpose of
22 enabling the subsequent offer of a large reduction” off that price. 16 C.F.R. § 233.1. They also prohibit
23 false or misleading “retail price comparisons” and “comparable value comparisons,” for example, ones
24 that falsely suggest that the seller is “offer[ing] goods at prices lower than those being charged by others
25 for the same merchandise” when this is not the case. 16 C.F.R. § 233.1.

26 7. So, as numerous courts have found, fake sales violate these laws. They also violate
27 California’s general prohibition on unlawful, unfair, and deceptive business practices. *See* Cal. Bus. &
28 Prof. Code § 17200.

1 8. Defendant Tuft & Needle, LLC (“Defendant” or “Tuft & Needle”) sells and markets
2 mattresses and bedding products online through the Tuft & Needle brand and website,
3 www.tuftandneedle.com (“Tuft & Needle Products” or “Products”).

4 9. On its website, Defendant lists purported regular prices and advertises purported
5 discounts from those listed regular prices. These include “LIMITED TIME” discounts offering “up to
6 \$X off” and “X% off.” Defendant also advertises that its Products have a lower discount price as
7 compared to a higher, regular price shown in grey and/or strikethrough font. Examples are shown
8 below:



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Up to 20% off our bestselling mattresses

TUFT&NEEDLE Mattresses Bedding Furniture Lifestyle Sale Why T&N; Search

Up to 20% off our bestselling mattresses Shop Sale

LIMITED TIME ONLY




LIMITED TIME ONLY

Up to 20% off our bestselling mattresses

Save now through 1/18

Shop Sale

Save now through 1/18

T&N; Original Mattress	Mint Mattress	Mint Hybrid Mattress
		
\$596 - \$1,116 \$745 - \$1,395	\$876 - \$1,676 \$1,095 - \$2,095	\$1,018.35 - \$1,894.35 \$1,395 - \$2,595
Bounce-back support and breathability from our T&N; Adaptive® foam technology.	Cool comfort and pressure relief thanks to our T&N; Adaptive® foam, plus edge support designed for two sleepers—now with a washable top cover.	Our T&N; Adaptive® foam meets Micro Diamond memory foam and bouncy springs for the ultimate motion control and pressure relief—all wrapped in an ultra-soft washable top cover.
Shop Now	Shop Now	Shop Now

10. But in fact, Defendant's discounts are routinely available. As a result, everything about Defendant's price and purported discount advertising is false. The regular prices Defendant advertises are not actually Defendant's regular prices, because Defendant's Products are routinely available for less than that. The purported discounts Defendant advertises are not the true discount the customer is

1 receiving, and are often not a discount at all. Nor are the purported discounts “LIMITED TIME
2 ONLY,” or limited to specific time periods like Presidents’ Day or Black Friday.

3 11. As described in greater detail below, Ms. Chebul bought items from Defendant from its
4 website, www.tuftandneedle.com. When Ms. Chebul made her purchase, Defendant advertised that a
5 sale was going on, and so Defendant represented that the Product Ms. Chebul purchased was being
6 offered at a steep discount from its purported regular prices that Defendant advertised. And based on
7 Defendant’s representations, Ms. Chebul believed that she was purchasing a Product whose regular price
8 and market value were the purported regular prices that Defendant advertised, that she was receiving a
9 substantial discount, and that the opportunity to get that discount was time-limited. These reasonable
10 beliefs are what caused Ms. Chebul to buy from Defendant when she did.

11 12. In truth, however, the representations Ms. Chebul relied on were not true. The purported
12 regular prices were not the true regular prices that Defendant sells the products for, the purported
13 discounts were not the true discounts, and the discounts were ongoing—not time-limited. Had
14 Defendant been truthful, Ms. Chebul and other consumers like her would not have purchased the
15 Products, or would have paid less for them.

16 13. Plaintiff brings this case for herself and the other customers who purchased Tuft &
17 Needle Products.

18 **II. Parties.**

19 14. Plaintiff Emily Chebul is domiciled in Castaic, California.

20 15. The proposed class includes citizens of California.

21 16. Defendant Tuft & Needle, LLC is a Delaware limited liability company with its principal
22 place of business at 735 Grand Avenue, Phoenix, Arizona 85007.

23 **III. Jurisdiction and Venue.**

24 17. The Court has personal jurisdiction over Defendant because Defendant sold Tuft &
25 Needle Products to consumers in California, including to Plaintiff.

26 18. Venue is proper because Defendant does business in the county, and a substantial portion
27 of the transactions occurred in this county.

28 **IV. Facts.**

1 **A. Defendant’s fake prices and fake discounts.**

2 19. Defendant Tuft & Needle manufactures, distributes, markets, and sells mattresses.

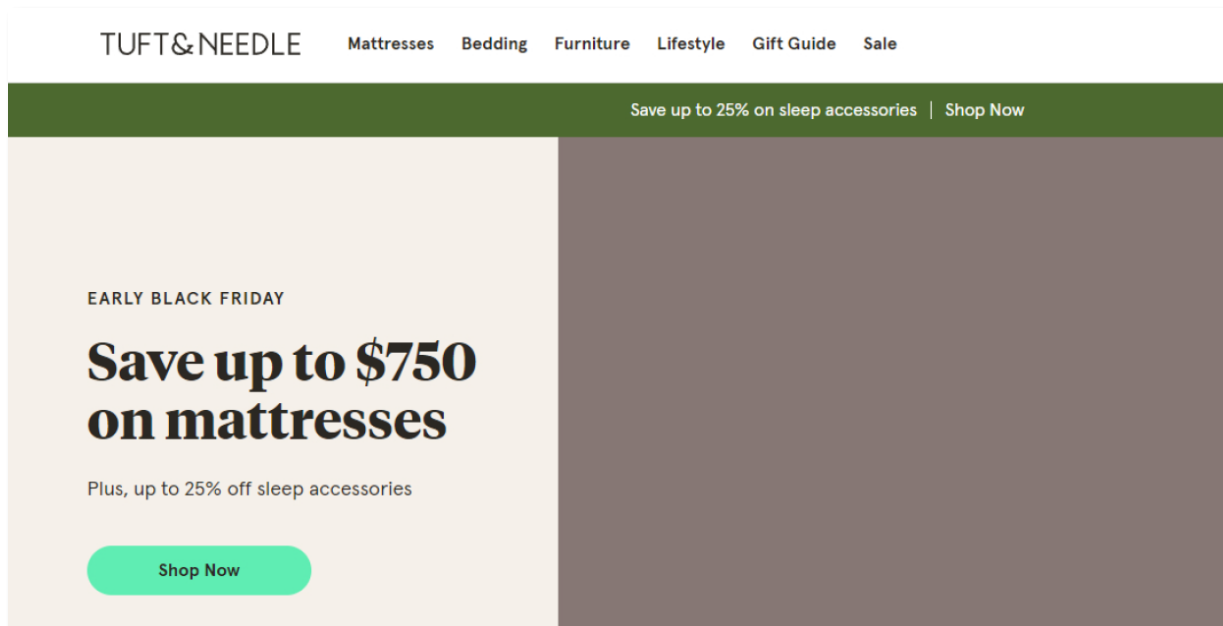
3 Defendant sells its Products directly to consumers through its website, www.tuftandneedle.com.

4 20. On its website, Defendant creates the false impression that its Products’ regular prices are
5 higher than they truly are.

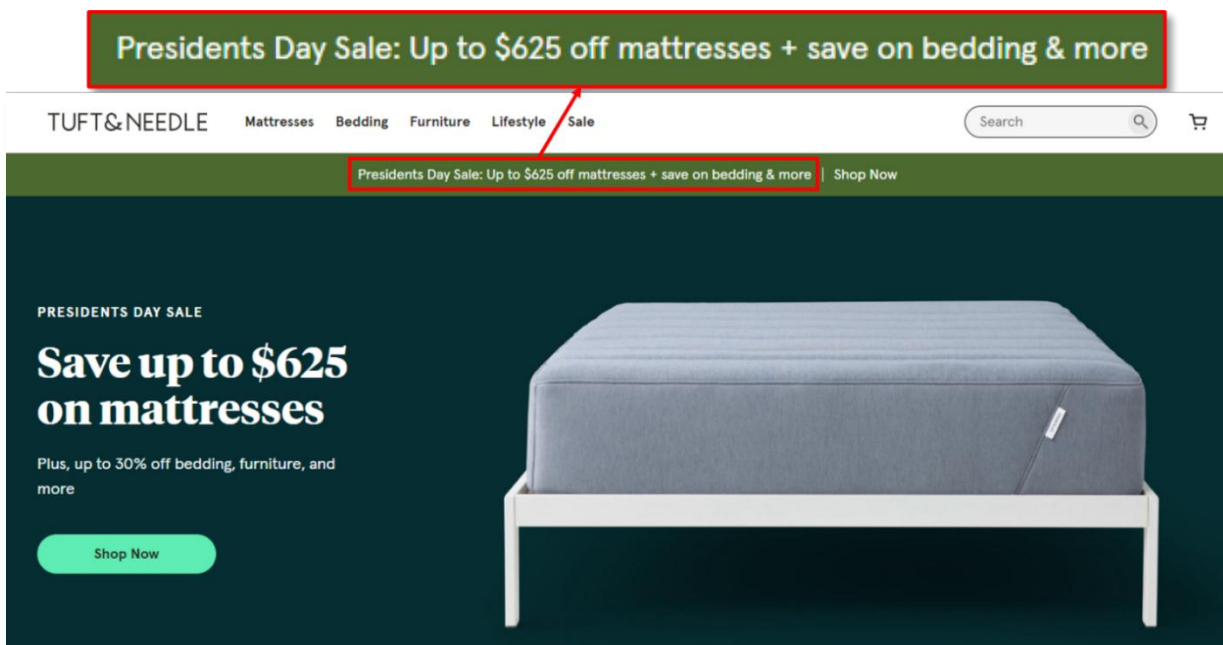
6 21. On its website, Defendant advertises steep discounts on its Products. These discounts
7 consistently offer “X%” or “\$X” off the listed regular prices Defendant advertises. Defendant also
8 states that they are “LIMITED TIME ONLY” or limited to specific time periods (such as Black Friday
9 or Presidents’ Day). And it advertises these discounts extensively: on an attention-grabbing banner at
10 the top of its website; in a large banner image on its homepage; on the products listing pages, next to
11 images of each Product; on the individual product pages for each Product; and during checkout.

12 Example screenshots are provided on the following pages:

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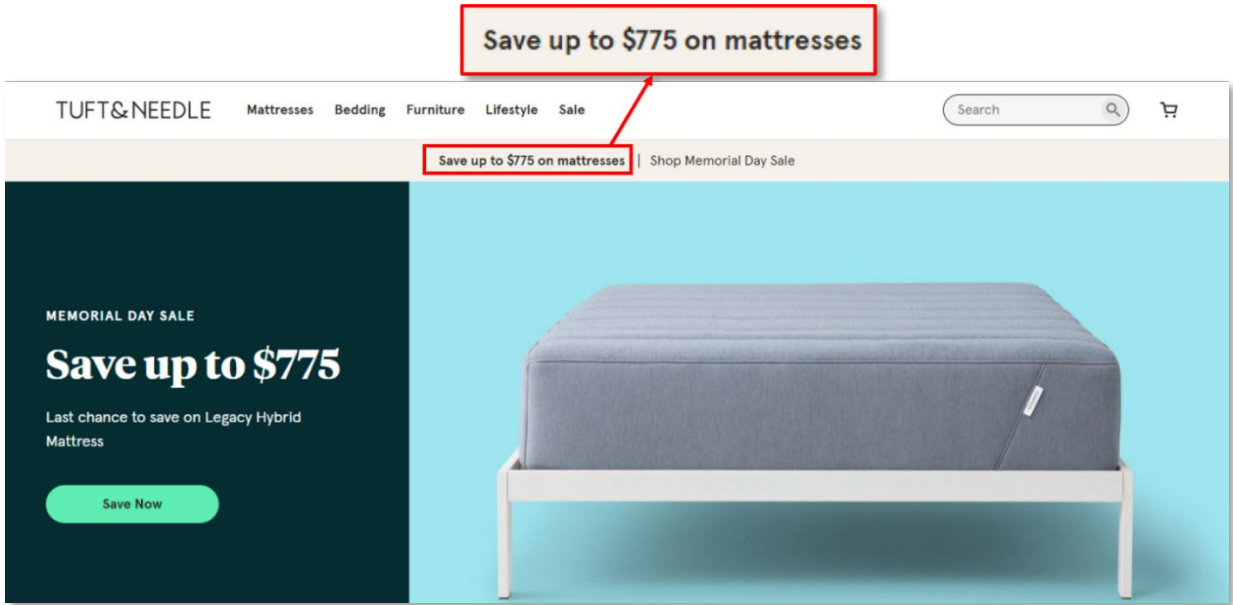


Captured on November 18, 2022

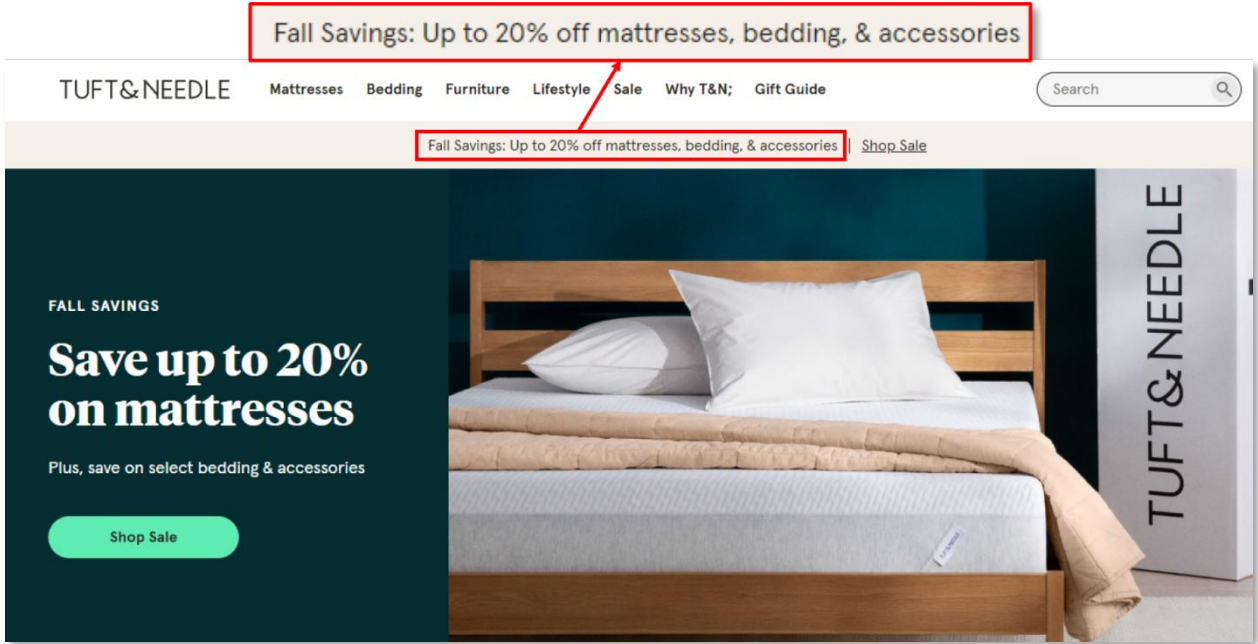


Captured on February 8, 2023

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Captured on May 11, 2023



Captured on October 20, 2023

Up to 20% off our bestselling mattresses

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TUFT&NEEDLE Mattresses Bedding Furniture Lifestyle Sale Why T&N; Search

Up to 20% off our bestselling mattresses | Shop Sale

LIMITED TIME ONLY

LIMITED TIME ONLY

Up to 20% off our bestselling mattresses




Save now through 1/18

Shop Sale

Save now through 1/18

Captured on January 10, 2024

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T&N; Original Mattress	Mint Mattress	Mint Hybrid Mattress
		
\$596 - \$1,116 \$745 - \$1,395	\$876 - \$1,676 \$1,095 - \$2,095	\$1,018.35 - \$1,894.35 \$1,395 - \$2,595
Bounce-back support and breathability from our T&N; Adaptive® foam technology.	Cool comfort and pressure relief thanks to our T&N; Adaptive® foam, plus edge support designed for two sleepers—now with a washable top cover.	Our T&N; Adaptive® foam meets Micro Diamond memory foam and bouncy springs for the ultimate motion control and pressure relief—all wrapped in an ultra-soft washable top cover.
Shop Now	Shop Now	Shop Now

Captured on May 20, 2023

Save up to \$700 on select mattresses + frames

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TUFT&NEEDLE Mattresses Bedding Furniture Lifestyle Sale Why T&N; Search

Save up to \$700 on select mattresses + frames Shop Sale

Home / Mattresses / Bestselling T&N; Mint Mattress

Bestselling T&N; Mint Mattress

Cool comfort and pressure relief thanks to our T&N; Adaptive® foam, plus edge support designed for two sleepers—now with a washable top cover.

JULY 4TH SUPER SALE - SAVE 15%

JULY 4TH SUPER SALE - SAVE 15%

Plus, save an additional 15% when you bundle with our Mattress Protector, Down Alternative Pillow Set, and any sheet set. Use code MATTRESS15 at checkout.

\$930.75 ~~\$1,095.00~~

\$930.75 ~~\$1,095.00~~

Starting at \$85/mo with [affirm](#) Prequalify now

Captured on June 29, 2023

Spring forward with up to 20% off mattresses & bedding

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TUFT&NEEDLE Mattresses Bedding Furniture Lifestyle Sale Why T&N; Search

Spring forward with up to 20% off mattresses & bedding Shop now

Home / Mattresses / Bestselling T&N Mint

Bestselling T&N Mint

★★★★★ 4.6 (14299)

Cool comfort and pressure relief, designed for two sleepers—now with a washable cover.

DAYLIGHTS SAVINGS SALE - SAVE 20%

DAYLIGHTS SAVINGS SALE - SAVE 20%

Plus, save an additional 15% when you bundle with our Mattress Protector, Down Alternative Pillow Set, and any sheet set. Add eligible items to your cart and use code MATTRESS15 at checkout.

\$1,596.00 ~~\$1,995.00~~

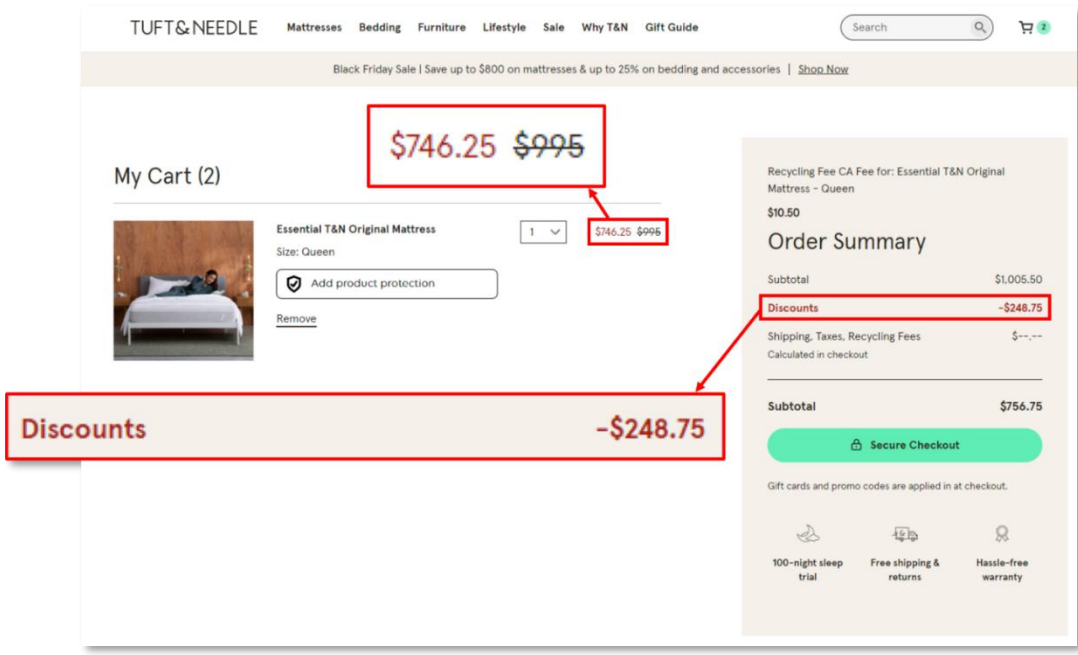
\$1,596.00 ~~\$1,995.00~~

Starting at \$145/mo with [affirm](#) Prequalify now

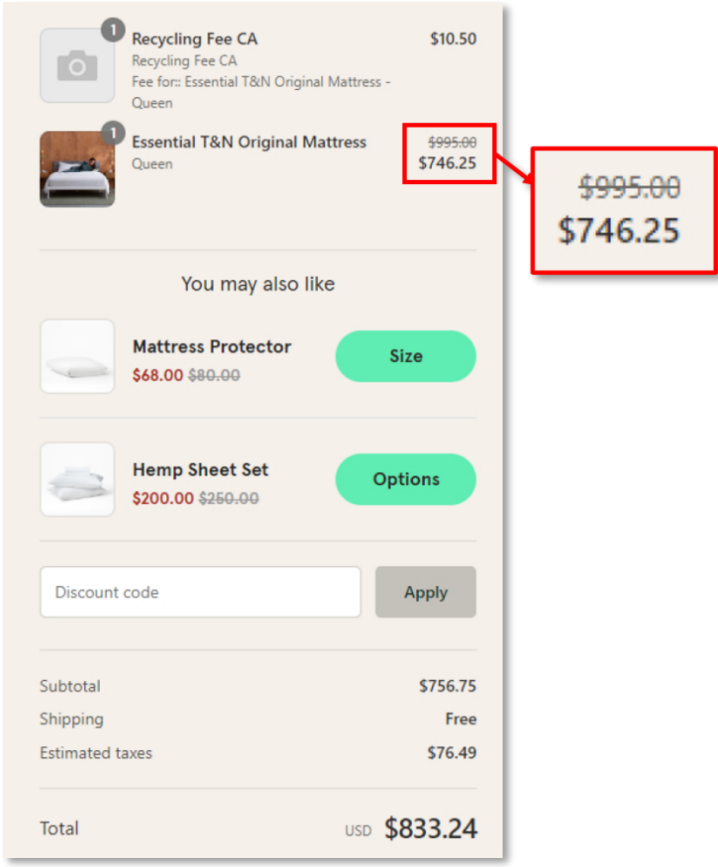
Select Size Size & dimensions

Twin	Twin XL	Full
Queen	King	Cal King

Captured on March 11, 2024



Captured on November 9, 2023



Captured on November 9, 2023

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1 22. To confirm that Defendant’s Products are consistently available on Defendant’s website
2 for less than Defendant’s purported regular prices, Plaintiff’s counsel performed an investigation of
3 Defendant’s advertising practices using the Internet Archive’s Wayback Machine (available at
4 www.archive.org).¹ This investigation revealed that Defendant’s Products have been regularly available
5 at allegedly discounted prices for years. Plaintiff’s counsel gathered all available screenshots on the
6 Internet Archive of the Tuft & Needle Mint Mattress product page (the mattress Plaintiff purchased)
7 from January 1, 2023 to February 28, 2024. The product page was available for 66 days during this
8 period, and the Product was advertised at a discount for 56 of those days—or approximately 85% of the
9 time. And, during the 90-day period immediately preceding Plaintiff’s purchase, the product page was
10 available on the Internet Archive for 13 days, and the Product was advertised at a discount on each of
11 those days. Thus, Plaintiff’s counsel’s investigation revealed that the Product is consistently available
12 for prices lower than Defendant’s advertised regular prices.

13 23. Using these tactics, Defendant leads reasonable consumers to believe that they will get a
14 discount on the Products they are purchasing if they purchase during a limited time promotion. In other
15 words, it leads reasonable consumers to believe that if they buy now, they will get a Product worth X at
16 a discounted, lower price Y. This creates a sense of urgency: buy now, and you will receive something
17 worth more than you pay for it; wait, and you will pay more for the same thing later.

18 24. Based on Defendant’s advertisements, reasonable consumers reasonably believe that the
19 prices displayed in “strikethrough font” (e.g., “\$995.00”) are Defendant’s regular prices and former
20 prices (that is, the price at which the goods were actually offered for sale on Defendant’s website before
21 the limited-time offer went into effect). In other words, reasonable consumers reasonably believe that
22 the listed strikethrough regular prices Defendant advertises represent the amount that consumers
23 formerly had to pay on Defendant’s website for Defendant’s goods, before the limited-time sale began.
24 Said differently, reasonable consumers reasonably believe that, prior to the supposedly time-limited sale,

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27 ¹ The Internet Archive, available at archive.org, is a library that archives web pages.
28 <https://archive.org/about/>

1 consumers buying from Defendant on its website had to pay the regular price to get the item and did not
2 have the opportunity to get a discount from that regular price.

3 25. Reasonable consumers also reasonably believe that the listed regular prices Defendant
4 advertises represent the true market value of the Products, and are the prevailing prices for those
5 Products; and that they are receiving reductions from those listed regular prices in the amounts
6 advertised. In truth, however, Defendant consistently offers discounts off the purported regular prices it
7 advertises. As a result, everything about Defendant’s price and purported discount advertising is false.
8 The regular prices Defendant advertises are not actually Defendant’s regular or former prices, or, as
9 discussed below, the prevailing prices for the Products Defendant sells. And, the listed regular prices do
10 not represent the true market value for the Products, because Defendant’s Products are consistently
11 available for less than that on Defendant’s website, and customers did not have to formerly pay that
12 amount to get those items. The purported discounts Defendant advertises are not the true discount the
13 customer is receiving, and are often not a discount at all. Nor are the purported discounts limited in
14 time—quite the opposite, they are regularly available.

15 **B. Defendant’s purported regular prices were not the prevailing market prices during**
16 **the 90 days immediately preceding Defendant’s advertisement of the purported**
17 **discount.**

18 26. Defendant is the manufacturer of the Products and the vast majority of the Products’ sales
19 are sold by Defendant directly to consumers through its branded website, www.tuftandneedle.com
20 (consistently at purportedly discounted prices). If a consumer is searching for Tuft & Needle Products,
21 they will go to Defendant’s website. For example, if a consumer googles “Tuft and Needle mattress,”
22 the first result is www.tuftandneedle.com.

23 27. The difference in the number of product reviews on Defendant’s website versus
24 Amazon.com, one of the world’s largest retailers of consumer goods, also shows that the Tuft & Needle
25 Products are most commonly sold on Defendant’s website (at Defendant’s prices). For example, as of
26 the filing of this Complaint, the “Bestselling” Tuft & Needle Mint Mattress (the mattress purchased by
27 Plaintiff on Defendant’s website) has 14,358 reviews on Defendant’s website, but only 1,173 on
28 Amazon.com:

1 Tuftandneedle.com:

Bestselling T&N Mint

★★★★★ 4.6 (14368)

Cool comfort and pressure relief, designed for two sleepers—now with a washable cover.

8 Amazon.com:

Tuft & Needle Mint Queen Mattress - Easy to Clean Removable Cover - Durable Adaptive Foam with Ceramic and Cooling Gel - CertiPUR-US - 100 Night Trial

[Visit the Tuft & Needle Store](#)

4.5 ★★★★★ 1,173 ratings

14 28. As the primary seller of the Products, Defendant sets the prevailing market price: most
15 sales are made at Defendant's prices, because Defendant is the one making the sales. So, to the extent
16 the Products are sold by third-party retailers like Amazon.com who buy Products from Defendant and
17 then resell them to their customers, the third-party retailers' prices for the Products are not the prevailing
18 market prices. Plus, the prices charged by third-party retailers converge on Defendant's prices,
19 especially because the Products are sold in an e-commerce market and Defendant, the manufacturer,
20 sells the Products directly to consumers through its publicly available website. Reasonable consumers
21 who purchase from third-party retailers would not pay more than the price that the manufacturer
22 Defendant prominently advertises on its publicly available website.

23 29. In short, because the Products are most commonly sold on Defendant's website, they are
24 most commonly sold for the discounted prices consistently available on Defendant's website. Thus,
25 these prices are the prevailing market prices for the products.

27 **C. Defendant's advertisements are unfair, deceptive, and unlawful.**

1 30. Section 17500 of California’s False Advertising Law prohibits businesses from making
2 statements they know or should know to be untrue or misleading. Cal. Bus. & Prof. Code § 17500. This
3 includes statements falsely suggesting that a product is on sale, when it actually is not.

4 31. Moreover, section 17501 of California’s False Advertising Law specifically provides that
5 “[n]o price shall be advertised as a former price ... unless the alleged former price was the prevailing
6 market price ... within three months next immediately preceding” the advertising. Cal. Bus. & Prof.
7 Code § 17501.

8 32. In addition, California’s Consumer Legal Remedies Act prohibits “advertising goods or
9 services with the intent not to sell them as advertised” and specifically prohibits “false or misleading
10 statements of fact concerning reasons for, existence of, or amounts of price reductions.” Cal. Civ. Code
11 § 1770(a)(9), (13).

12 33. In addition, the Federal Trade Commission’s regulations prohibit false or misleading
13 “former price comparisons,” for example, making up “an artificial, inflated price ... for the purpose of
14 enabling the subsequent offer of a large reduction” off that price. 16 C.F.R. § 233.1. They also prohibit
15 false or misleading “retail price comparisons” and “comparable value comparisons,” for example ones
16 that falsely suggest that the seller is “offer[ing] goods at prices lower than those being charged by others
17 for the same merchandise” when this is not the case. 16 C.F.R. § 233.1.

18 34. And finally, California’s unfair competition law bans unlawful, unfair, and deceptive
19 business practices. *See* Cal. Bus. & Prof. Code § 17200.

20 35. Here, as described in detail above, Defendant makes untrue and misleading statements
21 about its prices. Defendant advertises regular prices that are not its true regular prices, or its former
22 prices, and were not the prevailing market price in the three months immediately preceding the
23 advertisement. In addition, Defendant advertised goods or services with the intent not to sell them as
24 advertised, for example, by advertising goods having certain former prices and/or market values without
25 the intent to sell goods having those former prices and/or market values. Defendant made false or
26 misleading statements of fact concerning the reasons for, existence of, and amounts of price reductions,
27 including the existence of steep discounts, and the amounts of price reductions resulting from those
28 discounts. And Defendant engaged in unlawful, unfair, and deceptive business practices.

1 **D. Defendant’s advertisements harm consumers.**

2 36. Based on Defendant’s advertisements, reasonable consumers would expect that the listed
3 regular prices are the regular prices at which Defendant usually sells its Products and that these are
4 former prices that Defendant sold its Products at before the time-limited discount was introduced.

5 37. Reasonable consumers would also expect that, if they purchase during the sale, they will
6 receive an item whose regular price and/or market value is the advertised regular price and that they will
7 receive the advertised discount from the regular purchase price.

8 38. In addition, consumers are more likely to buy the product if they believe that the product
9 is on sale and that they are getting a product with a higher regular price and/or market value at a
10 substantial discount.

11 39. Consumers that are presented with discounts are substantially more likely to make the
12 purchase. “Nearly two-thirds of consumers surveyed admitted that a promotion or a coupon often closes
13 the deal, if they are wavering or are undecided on making a purchase.” And, “two-thirds of consumers
14 have made a purchase they weren’t originally planning to make solely based on finding a coupon or
15 discount,” while “80% [of consumers] said they feel encouraged to make a first-time purchase with a
16 brand that is new to them if they found an offer or discount.”

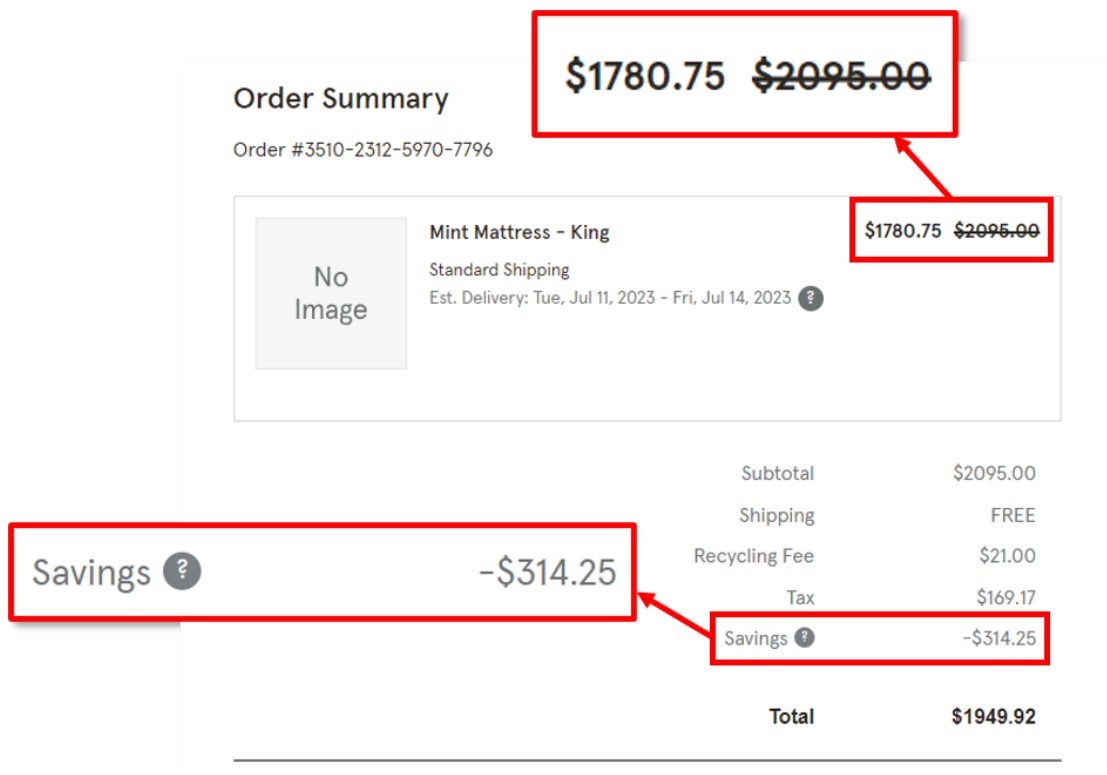
17 40. Similarly, when consumers believe that an offer is expiring soon, the sense of urgency
18 makes them more likely to buy a product.

19 41. Thus, Defendant’s advertisements harm consumers by inducing them to make purchases
20 based on false information. In addition, by this same mechanism, Defendant’s advertisements
21 artificially increase consumer demand for Defendant’s Products. This puts upward pressure on the
22 prices that Defendant can charge for its Products. As a result, Defendant can charge a price premium for
23 its Products, that it would not be able to charge absent the misrepresentations described above. So, due
24 to Defendant’s misrepresentations, Plaintiff and the class paid more for the Products they bought than
25 they otherwise would have.

26 **E. Plaintiff was misled by Defendant’s misrepresentations.**

27 42. On July 4, 2023, Ms. Chebul purchased a king-sized Tuft & Needle Mint Mattress from
28 Defendant’s website. She made this purchase while living in Castaic, California. In the email order

1 confirmation and online order summary that Defendant sent to Ms. Chebul after she made her purchase,
2 Defendant represented that the Tuft & Needle Mint Mattress had a regular price of \$2095.00 (in
3 strikethrough font). And, Defendant represented that Ms. Chebul received a “Savings” of \$314.25 for a
4 discounted price of \$1780.75.



18 43. In short, Defendant represented that the Product had a certain regular price and that Ms.
19 Chebul was receiving a substantial discount for the item that she purchased.

20 44. Ms. Chebul read and relied on Defendant’s representations on the website, specifically
21 that the Product was being offered at a discount and had the regular price listed above. She relied on the
22 strikethrough regular price of “\$2095.00,” the discounted price of “\$1780.75,” and the “Savings” of “-
23 \$314.25.” Based on Defendant’s representations described and shown above, Ms. Chebul reasonably
24 understood that Defendant regularly (and before the promotion Defendant was advertising) sold the
25 Products she was purchasing at the published regular price, that this regular price was the market value
26 of the Products that she was buying, that she was receiving the advertised discount as compared to the
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28

1 regular price. She would not have made the purchase if she had known that the Product was not
2 discounted as advertised, and that she was not receiving the advertised discount.

3 45. In reality, as explained above, Defendant's products, including the Products that Ms.
4 Chebul purchased, are regularly available at a discounted price of off the purported regular prices. In
5 other words, Defendant did not regularly sell the Products Ms. Chebul purchased at the purported
6 regular prices, and the Products were not discounted as advertised. Plus, the sale was not limited time—
7 Defendant's products are routinely on sale.

8 46. Plaintiff faces an imminent threat of future harm. Plaintiff would purchase Products from
9 Defendant again in the future if she could feel sure that Defendant's regular prices accurately reflected
10 Defendant's former prices and the market value of the Products, and that its discounts were truthful. But
11 without an injunction, Plaintiff has no realistic way to know which—if any—of Defendant's regular
12 prices, discounts, and sales are not false or deceptive. For example, while she could watch Defendant's
13 website for a sale on the day that it is supposed to end to see if the sale is permanent, doing so could
14 result in her missing out on the sale (*e.g.*, if the sale is actually limited in time, and not permanent).
15 Accordingly, Plaintiff is unable to rely on Defendant's advertising in the future, and so cannot purchase
16 Products she would like to purchase.

17 **F. Defendant breached its contract with and warranties to Ms. Chebul and the**
18 **putative class.**

19 47. When Ms. Chebul, and other members of the putative class, purchased and paid for the
20 Tuft & Needle Products that they bought as described above, they accepted offers that Defendant made,
21 and thus, a contract was formed each time that they made purchases. Each offer was to provide Products
22 having a particular listed regular price and market value, and to provide those Products at the discounted
23 price advertised on the website.

24 48. Defendant's website and email confirmations list the market value of the items that
25 Defendant promised to provide (which, for Ms. Chebul, are shown above). Defendant agreed to provide
26 a discount equal to the difference between the regular prices, and the prices paid by Ms. Chebul and
27 putative class members (also shown above for Ms. Chebul). For example, Defendant offered to provide
28 Ms. Chebul (among other things) the Tuft & Needle Mint Mattress with a market value of \$2095, and to

1 provide a discount of \$314.25. Defendant also warranted that the regular price and market value of the
2 Products Ms. Chebul purchased was the advertised list price and warranted that Ms. Chebul was
3 receiving a specific discount on those Products.

4 49. The regular price and market value of the items Ms. Chebul and putative class members
5 would receive, and the amount of the discount they would be provided off the regular price of those
6 items, were specific and material terms of the contract. They were also affirmations of fact about the
7 Products and a promise relating to the goods.

8 50. Ms. Chebul and other members of the putative class performed their obligations under the
9 contract by paying for the items they purchased.

10 51. Defendant breached its contract by failing to provide Ms. Chebul and other members of
11 the putative class with Products that have a regular price and market value equal to the regular price
12 displayed, and by failing to provide the discount it promised. Defendant also breached warranties for
13 the same reasons.

14 **G. No adequate remedy at law.**

15 52. Plaintiff seeks damages and, in the alternative, restitution. Plaintiff is permitted to seek
16 equitable remedies in the alternative because she has no adequate remedy at law.

17 53. A legal remedy is not adequate if it is not as certain as an equitable remedy. The
18 elements of Plaintiff's equitable claims are different and do not require the same showings as Plaintiff's
19 legal claims. For example, Plaintiff's FAL claim under section 17501 (an equitable claim) is predicated
20 on a specific statutory provision, which prohibits advertising merchandise using a former price if that
21 price was not the prevailing market price within the past three months. Cal. Bus. & Prof. Code § 17501.
22 Plaintiff may be able to prove these more straightforward factual elements, and thus prevail under the
23 FAL, while not being able to prove one or more elements of her legal claims.

24 54. In addition, to obtain a full refund as damages, Plaintiff must show that the Products she
25 bought has essentially no market value. In contrast, Plaintiff can seek restitution without making this
26 showing. This is because Plaintiff purchased Products that she would not otherwise have purchased, but
27 for Defendant's representations. Obtaining a full refund at law is less certain than obtaining a refund in
28 equity.

1 55. Furthermore, the remedies at law available to Plaintiff are not equally prompt or
2 otherwise efficient. The need to schedule a jury trial may result in delay. And a jury trial will take
3 longer, and be more expensive, than a bench trial.

4 56. Finally, legal damages are inadequate to remedy the imminent threat of future harm that
5 Plaintiff faces. Only an injunction can remedy this threat of future harm. Plaintiff would purchase
6 Products from Defendant again in the future if she could feel sure that Defendant's regular prices
7 accurately reflected Defendant's former prices and the market value of the Products, and that its
8 discounts were truthful. But without an injunction, Plaintiff has no realistic way to know which—if
9 any—of Defendant's regular prices, discounts, and sales are not false or deceptive. Thus, she is unable
10 to rely on Defendant's advertising in the future, and so cannot purchase Products she would like to
11 purchase.

12
13 **V. Class action allegations.**

14 57. Plaintiff brings the asserted claims on behalf of the proposed Class of: all persons who,
15 while in the state of California and within the applicable statute of limitations period, purchased one or
16 more Tuft & Needle Products advertised at a discount on Defendant's website.

17 58. The following people are excluded from the class: (1) any Judge or Magistrate Judge
18 presiding over this action and the members of their family; (2) Defendant, Defendant's subsidiaries,
19 parents, successors, predecessors, and any entity in which the Defendant or its parents have a controlling
20 interest and their current employees, officers, and directors; (3) persons who properly execute and file a
21 timely request for exclusion from the class; (4) persons whose claims in this matter have been finally
22 adjudicated on the merits or otherwise released; (5) Plaintiff's counsel and Defendant's counsel, and
23 their experts and consultants; and (6) the legal representatives, successors, and assigns of any such
24 excluded persons.

25 ***Numerosity & Ascertainability***

26 59. The proposed class contains members so numerous that separate joinder of each member
27 of the class is impractical. There are tens or hundreds of thousands of class members.

28 60. Class members can be identified through Defendant's sales records and public notice.

1 68. As alleged more fully above, Defendant advertises former prices along with discounts.
2 Defendant does this, for example, by crossing out a higher price (*e.g.*, \$2095) and displaying it next to a
3 lower, discounted price. Reasonable consumers would understand prices advertised in strikethrough
4 font from which time-limited discounts are calculated to denote “former” prices, *i.e.*, the prices that
5 Defendant charged before the time-limited discount went into effect.

6 69. The prices advertised by Defendant are not Defendant’s regular prices. In fact, those
7 prices are not Defendant’s regular prices (*i.e.*, the price you usually have to pay to get the Product in
8 question), because there is routinely a heavily-advertised promotion ongoing entitling consumers to a
9 discount. Moreover, for the same reasons, those prices were not the former prices of the Products.
10 Accordingly, Defendant’s statements about the former prices of its Products, and its statements about its
11 discounts from those former prices, were untrue and misleading. In addition, Defendant’s statements
12 that its discounts are “LIMITED TIME ONLY,” or specific to certain time periods (such as Presidents’
13 Day or Fourth of July) are false and misleading too.

14 70. In addition, Defendant has violated, and continues to violate, section 17501 of the
15 Business and Professions Code by advertising former prices that were not the prevailing market price
16 within three months next immediately preceding the advertising. As explained above, Defendant’s
17 advertised regular prices, which reasonable consumers would understand to denote former prices, were
18 not the prevailing market prices for the Products within three months preceding publication of the
19 advertisement. And Defendant’s former price advertisements do not state clearly, exactly, and
20 conspicuously when, if ever, the former prices prevailed. Defendant’s advertisements do not indicate
21 whether or when the purported former prices were offered at all.

22 71. Defendant’s misrepresentations were intended to induce reliance, and Plaintiff saw, read,
23 and reasonably relied on the statements when purchasing Tuft & Needle Products. Defendant’s
24 misrepresentations were a substantial factor in Plaintiff’s purchase decision.

25 72. In addition, Class-wide reliance can be inferred because Defendant’s misrepresentations
26 were material, *i.e.*, a reasonable consumer would consider them important in deciding whether to buy
27 the Tuft & Needle Products.
28

1 83. Defendant violated, and continues to violate, section 1770(a)(5) of the California Civil
2 Code by representing that Products offered for sale have characteristics or benefits that they do not have.
3 Defendant represents that the value of its Products is greater than it actually is by advertising inflated
4 regular prices and fake discounts for Products.

5 84. Defendant violated, and continues to violate, section 1770(a)(9) of the California Civil
6 Code. Defendant violates this by advertising its Products as being offered at a discount, when in fact
7 Defendant does not intend to sell the Products at a discount.

8 85. And Defendant violated, and continues to violate section 1770(a)(13) by making false or
9 misleading statements of fact concerning reasons for, existence of, or amounts of, price reductions on its
10 website, including by (1) misrepresenting the regular price of Products on its website, (2) advertising
11 discounts and savings that are exaggerated or nonexistent, (3) misrepresenting that the discounts and
12 savings are unusually large, when in fact they are regularly available (4) misrepresenting the reason for
13 the sale (e.g., “Presidents’ Day Sale,” when in fact the sale is ongoing and not limited to Presidents’
14 Day).

15 86. Defendant’s representations were likely to deceive, and did deceive, Plaintiff and
16 reasonable consumers. Defendant knew, or should have known through the exercise of reasonable care,
17 that these statements were inaccurate and misleading.

18 87. Defendant’s misrepresentations were intended to induce reliance, and Plaintiff saw, read,
19 and reasonably relied on them when purchasing Tuft & Needle Products. Defendant’s
20 misrepresentations were a substantial factor in Plaintiff’s purchase decision.

21 88. In addition, Class -wide reliance can be inferred because Defendant’s misrepresentations
22 were material, i.e., a reasonable consumer would consider them important in deciding whether to buy
23 the Tuft & Needle Products.

24 89. Defendant’s misrepresentations were a substantial factor and proximate cause in causing
25 damages and losses to Plaintiff and the Class.

26 90. Decisions regarding the pricing and discount policies of Defendant’s Products are
27 significant decisions that directly impact revenue and are inherently tied to corporate policy. Thus, these
28 decisions were made with the direction of or ratification by Defendant’s officers, directors, or managing

1 agents. In other words, Defendant’s officers, directors, or managing agents knew about and authorized
2 the deceptive pricing representations and intended that Plaintiff and Class members rely on them.

3 91. Plaintiff and the Class were injured as a direct and proximate result of Defendant’s
4 conduct because (a) they would not have purchased Tuft & Needle Products if they had known the
5 discounts and/or regular prices were not real, (b) they overpaid for the Products because the Products
6 were sold at a price premium due to the misrepresentation, and/or (c) they received products with market
7 values lower than the promised market values.

8 92. Accordingly, pursuant to California Civil Code § 1780(a)(2), Ms. Chebul, on behalf of
9 herself and all other members of the Class, seeks injunctive relief.

10 93. CLRA § 1782 NOTICE. On February 29, 2024, a CLRA demand letter was sent to
11 Defendant’s headquarters and registered agent via certified mail (return receipt requested), that provided
12 notice of Defendant’s violations of the CLRA and demanded that Defendant correct the unlawful, unfair,
13 false and/or deceptive practices alleged here. Defendant does not have a California headquarters.
14 Defendant has not fully corrected the problem for Plaintiff and for each member of the Class within 30
15 days of receipt. Accordingly, Plaintiff and the Class seek all monetary relief and equitable relief
16 allowed under the CLRA, including reasonable attorneys’ fees and punitive damages.

17 94. A CLRA venue declaration is attached.

18 **Third Cause of Action:**

19 **Violation of California’s Unfair Competition Law**

20 **(By Plaintiff and the Class)**

21 95. Plaintiff incorporates each and every factual allegation set forth above.

22 96. Plaintiff brings this cause of action on behalf of herself and members of the Class.

23 97. Defendant has violated California’s Unfair Competition Law (UCL) by engaging in
24 unlawful, fraudulent, and unfair conduct (i.e., violating each of the three prongs of the UCL).

25 ***The Unlawful Prong***

26 98. Defendant engaged in unlawful conduct by violating the CLRA and FAL, as alleged
27 above and incorporated here. In addition, Defendant engaged in unlawful conduct by violating the
28 FTCA. The FTCA prohibits “unfair or deceptive acts or practices in or affecting commerce” and

1 prohibits the dissemination of false advertisements. 15 U.S.C. § 45(a)(1). As the FTC’s regulations
2 make clear, Defendant’s false pricing schemes violate the FTCA. 16 C.F.R. § 233.1, § 233.2.

3 ***The Deceptive Prong***

4 99. As alleged in detail above, Defendant’s representations that its Products were on sale,
5 that the sale was limited in time, that the Products had a specific regular price, and that the customers
6 were receiving discounts were false and misleading.

7 100. Defendant’s representations were misleading to Plaintiff and other reasonable consumers.

8 101. Plaintiff relied upon Defendant’s misleading representations and omissions, as detailed
9 above.

10 ***The Unfair Prong***

11 102. As alleged in detail above, Defendant committed “unfair” acts by falsely advertising that
12 its Products were on sale, that the sale was limited in time, that the Products had a specific regular price,
13 and that the customers were receiving discounts.

14 103. Defendant violated established public policy by violating the CLRA, the FAL, and the
15 FTCA, as alleged above and incorporated here. The unfairness of this practice is tethered to a
16 legislatively declared policy (that of the CLRA, the FAL, and the FTCA).

17 104. The harm to Plaintiff and the Class greatly outweighs the public utility of Defendant’s
18 conduct. There is no public utility to misrepresenting the price of a consumer product. This injury was
19 not outweighed by any countervailing benefits to consumers or competition. Misleading consumer
20 products only injure healthy competition and harm consumers.

21 105. Plaintiff and the Class could not have reasonably avoided this injury. As alleged above,
22 Defendant’s representations were deceptive to reasonable consumers like Plaintiff.

23 106. Defendant’s conduct, as alleged above, was immoral, unethical, oppressive,
24 unscrupulous, and substantially injurious to consumers.

25 * * *

26 107. For all prongs, Defendant’s representations were intended to induce reliance, and
27 Plaintiff saw, read, and reasonably relied on them when purchasing Tuft & Needle Products.
28 Defendant’s representations were a substantial factor in Plaintiff’s purchase decision.

1 117. The specific discounts were a specific and material term of each contract.

2 118. Plaintiff and class members paid Defendant for the Products they purchased, and satisfied
3 all other conditions of their contracts.

4 119. Defendant breached its contracts with Plaintiff and class members by failing to provide
5 Products that had a regular price, former price, and/or prevailing market value equal to the regular price
6 displayed on its website, and by failing to provide the promised discount. Defendant did not provide the
7 discount that it had promised.

8 120. Plaintiff provided Defendant with notice of this breach of contract, by mailing a notice
9 letter to Defendant's headquarters and registered agent on February 29, 2024.

10 121. As a direct and proximate result of Defendant's breaches, Plaintiff and class members
11 were deprived of the benefit of their bargained-for exchange, and have suffered damages in an amount
12 to be established at trial.

13 **Fifth Cause of Action:**

14 **Breach of Express Warranty**

15 **(By Plaintiff and the Class)**

16 122. Plaintiff incorporates each and every factual allegation set forth above.

17 123. Plaintiff brings this cause of action on behalf of herself and members of the Class.

18 124. Defendant, as the manufacturer, marketer, distributor, supplier, and/or seller of the Tuft
19 & Needle Products, issued material, written warranties by advertising that the Products had a prevailing
20 market value equal to the regular price displayed on Defendant's website. This was an affirmation of
21 fact about the Products (i.e., a representation about the market value) and a promise relating to the
22 goods.

23 125. This warranty was part of the basis of the bargain and Plaintiff and members of the class
24 relied on this warranty.

25 126. In fact, the Tuft & Needle Products' stated market value was not the prevailing market
26 value. Thus, the warranty was breached.

27 127. Plaintiff provided Defendant with notice of this breach of warranty, by mailing a notice
28 letter to Defendant's headquarters and registered agent on February 29, 2024.

1 fraudulent inducement ‘when the promisor knows what he is signing but his consent is induced by
2 fraud.’”).

3 135. Plaintiff and the class seek restitution, and in the alternative, rescission.

4 **Seventh Cause of Action:**

5 **Negligent Misrepresentation**

6 **(By Plaintiff and the Class)**

7 136. Plaintiff incorporates each and every factual allegation set forth above.

8 137. Plaintiff brings this cause of action on behalf of herself and members of the Class.

9 138. As alleged more fully above, Defendant made false representations and material
10 omissions of fact to Plaintiff and Class members concerning the existence and/or nature of the discounts
11 and savings advertised.

12 139. These representations were false.

13 140. When Defendant made these misrepresentations, it knew or should have known that they
14 were false. Defendant had no reasonable grounds for believing that these representations were true
15 when made.

16 141. Defendant intended that Plaintiff and Class members rely on these representations and
17 Plaintiff and Class members read and reasonably relied on them.

18 142. In addition, Class -wide reliance can be inferred because Defendant’s misrepresentations
19 were material, i.e., a reasonable consumer would consider them important in deciding whether to buy
20 the Tuft & Needle Products.

21 143. Defendant’s misrepresentations were a substantial factor and proximate cause in causing
22 damages and losses to Plaintiff and Class members.

23 144. Plaintiff and Class members were injured as a direct and proximate result of Defendant’s
24 conduct because (a) they would not have purchased Tuft & Needle Products if they had known that the
25 representations were false, and/or (b) they overpaid for the Products because the Products were sold at a
26 price premium due to the misrepresentation.

27 **Eighth Cause of Action:**

28 **Intentional Misrepresentation**

(By Plaintiff and the Class)

145. Plaintiff incorporates each and every factual allegation set forth above.

146. Plaintiff brings this cause of action on behalf of herself and members of the Class.

147. As alleged more fully above, Defendant made false representations and material omissions of fact to Plaintiff and Class members concerning the existence and/or nature of the discounts and savings advertised. These representations were false.

148. When Defendant made these misrepresentations, it knew that they were false at the time that it made them and/or acted recklessly in making the misrepresentations.

149. Defendant intended that Plaintiff and Class members rely on these representations, and Plaintiff and Class members read and reasonably relied on them.

150. In addition, Class-wide reliance can be inferred because Defendant's misrepresentations were material, i.e., a reasonable consumer would consider them important in deciding whether to buy the Tuft & Needle Products.

151. Defendant's misrepresentations were a substantial factor and proximate cause in causing damages and losses to Plaintiff and Class members.

152. Decisions regarding the pricing and discount policies of Defendant's Products are significant decisions that directly impact revenue and are inherently tied to corporate policy. Thus, these decisions were made with the direction of or ratification by Defendant's officers, directors, or managing agents. In other words, Defendant's officers, directors, or managing agents knew about and authorized the deceptive pricing representations and intended that Plaintiff and Class members rely on them.

153. Plaintiff and Class members were injured as a direct and proximate result of Defendant's conduct because (a) they would not have purchased Tuft & Needle Products if they had known that the representations were false, and/or (b) they overpaid for the Products because the Products were sold at a price premium due to the misrepresentation.

VII. Prayer for Relief.

154. Plaintiff seeks the following relief for themselves and the proposed Class:

- An order certifying the asserted claims, or issues raised, as a class action;
- A judgment in favor of Plaintiff and the proposed Class;

- Damages, treble damages, and punitive damages where applicable;
- Restitution;
- Rescission;
- Disgorgement, and other just equitable relief;
- Pre- and post-judgment interest;
- An injunction prohibiting Defendant's deceptive conduct, as allowed by law;
- Reasonable attorneys' fees and costs, as allowed by law;
- Any additional relief that the Court deems reasonable and just.

Dated: October 31, 2025

Respectfully submitted,

By: /s/ Simon Franzini

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Attorneys for Plaintiff

1 **Demand for Jury Trial**

2 Plaintiff demands the right to a jury trial on all claims so triable.

3
4 Date: October 31, 2025

Respectfully submitted,

5
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