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7  
8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
**COUNTY OF LOS ANGELES**

9 TEARSA HAMMOCK, individually and on  
10 behalf of all others similarly situated,

11 *Plaintiff,*

12 vs.

13 NECTAR BRAND LLC,

14 *Defendant.*

Case No.

**Class Action Complaint**

1. False Advertising Law
2. Unfair Competition Law
3. Consumer Legal Remedies Act

Jury Trial Demanded

*General Jurisdiction – Civil*

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1 **I. Introduction.**

2 1. Sales drive sales. Consumers are more likely to purchase an item if they know  
3 that they are getting a good deal. Further, if consumers think that a sale will end soon, they are  
4 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  
6 made up regular prices, made up discounts, and made up expirations—is deceptive and illegal.

7 3. As the Federal Trade Commission advises in its *Guides Against Deceptive*  
8 *Pricing*, it is deceptive to make up an “an artificial, inflated price ... for the purpose of enabling  
9 the subsequent offer of a large reduction” off that price 16 C.F.R. §233.1.

10 4. So, these sales violate California’s general prohibition on unfair and deceptive  
11 business practices. *See* Cal. Bus. & Prof. Code § 17200.

12 5. Moreover, California’s False Advertising Law specifically prohibits “false or  
13 misleading statements of fact concerning reasons for, existence of, or amounts of price  
14 reductions.” *E.g.*, Cal. Civ. Code § 1770(a)(13).

15 6. Likewise, California’s Consumer Legal Remedies Act provides, “No price shall  
16 be advertised as a former price ... unless the alleged former price was the prevailing market price  
17 ... within three months next immediately preceding” the advertising. Cal. Bus. & Prof. Code  
18 §17501.

19 7. Defendant Nectar makes, sells, and markets mattresses, bedding, and other sleep-  
20 related products (the “Nectar Products” or “Products”). The Products are sold online through  
21 Defendant’s website, nectarsleep.com.

22 8. Nectar’s website prominently advertises sales on its websites. These  
23 advertisements include purported regular prices, purported discounts, and a countdown timer that  
24 purportedly shows when the sale ends. For example:

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1 Nectar's sale:



10 Purported regular prices and associated discounts:

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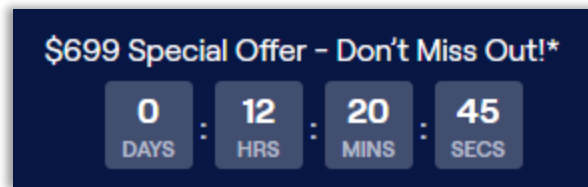
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Select Size	Size Guide
Queen	(Total Value \$1,498) <b>\$799</b> ^
Twin	Total Value \$973 <b>\$399</b>
Twin XL	Total Value \$1,143 <b>\$569</b>
Full	Total Value \$1,398 <b>\$699</b>
Queen	Total Value \$1,498 <b>\$799</b>
King	Total Value \$1,798 <b>\$1,099</b>
Cal King	Total Value \$1,798 <b>\$1,099</b>
Split King	Total Value \$2,286 <b>\$1,138</b>

1 Clock counting down until the sale ends:



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5 9. Everything about these advertisements is false. Nectar's products do not retail at  
6 the supposed regular prices it lists. In fact, Nectar has never once sold a single product at its  
7 supposed "regular" price. The supposedly "discounted" prices are the prices that Nectar always  
8 sells its products for. And when the countdown timer ends, the sale doesn't. Nectar simply  
9 changes the name of the sale (for example, from "Labor Day" sale to "After Labor Day" sale)  
10 and continues to list its products at the same, supposedly discounted price.

11 10. Ms. Hammock bought a Nectar mattress and bedding. Like Nectar's other  
12 customers, when Ms. Hammock bought Nectar's products, Nectar advertised that a purported  
13 sale was going on. Ms. Hammock believed that the Nectar Products that she purchased retailed  
14 for the displayed regular price. She further believed that she was getting a substantial discount  
15 from the regular price, and that the sale would end soon. These reasonable beliefs are what  
16 caused her to buy from Nectar when she did. If the products she purchased weren't on sale, she  
17 would not have bought them and would have instead comparison shopped.

18 11. But none of that was true. Nectar's published regular prices were fake; the  
19 products Ms. Hammock bought were not actually sold at those prices. There is also no actual  
20 discount from full price, and the sale never ends. Had Nectar been truthful, Plaintiff and other  
21 consumers would not have purchased the products or would have paid less for them.

22 12. Plaintiff brings this case for herself and the other consumers who purchased  
23 Nectar Products.

24 **II. Parties.**

25 13. Plaintiff Tearsa Hammock is domiciled in Burlingame, California.

26 14. The proposed class includes citizens of California.

27  
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1           15. Defendant Nectar Brand LLC is a California Limited Liability Company with its  
2 principal address at 340 S. Lemon Ave #9599, Walnut, California, 91789.

3 **III. Jurisdiction and Venue.**

4           16. The Court has personal jurisdiction over Defendant because it resides in  
5 California and does business here.

6           17. Venue is proper because Defendant resides in Los Angeles County.

7 **IV. Facts.**

8 **A. Nectar's fake sales and discounts.**

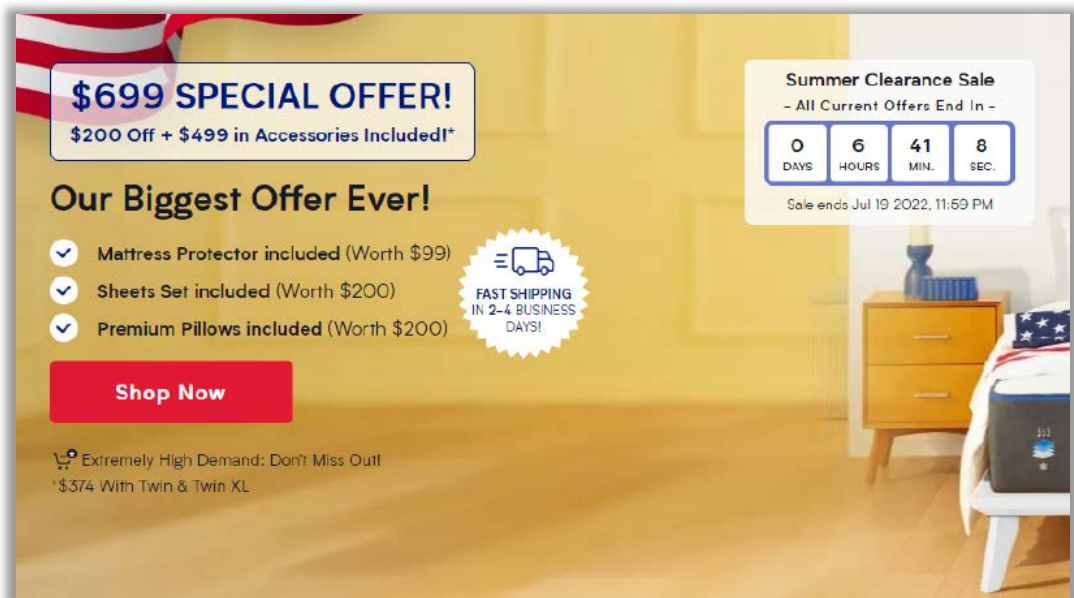
9           18. Nectar makes, sells, and markets mattresses, bedding, and other sleep-related  
10 products. Nectar sells its products directly to consumers online, through its website,  
11 nectarsleep.com.

12           19. Nectar's websites create an illusion that customers are receiving a limited-time  
13 discount. Nectar does this by advertising fake limited-time sales, fake regular prices, and fake  
14 discounts based on the fake regular prices.

15 Fake limited-time sales:

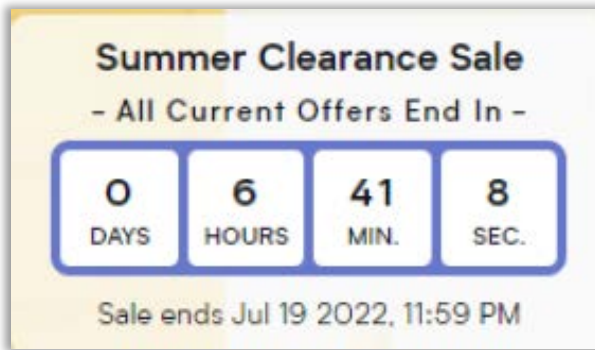
16           20. Nectar's website persistently represents that a sale is on the verge of ending.

17           21. For example, on July 19, 2022, Nectar website advertised a sale on its website:

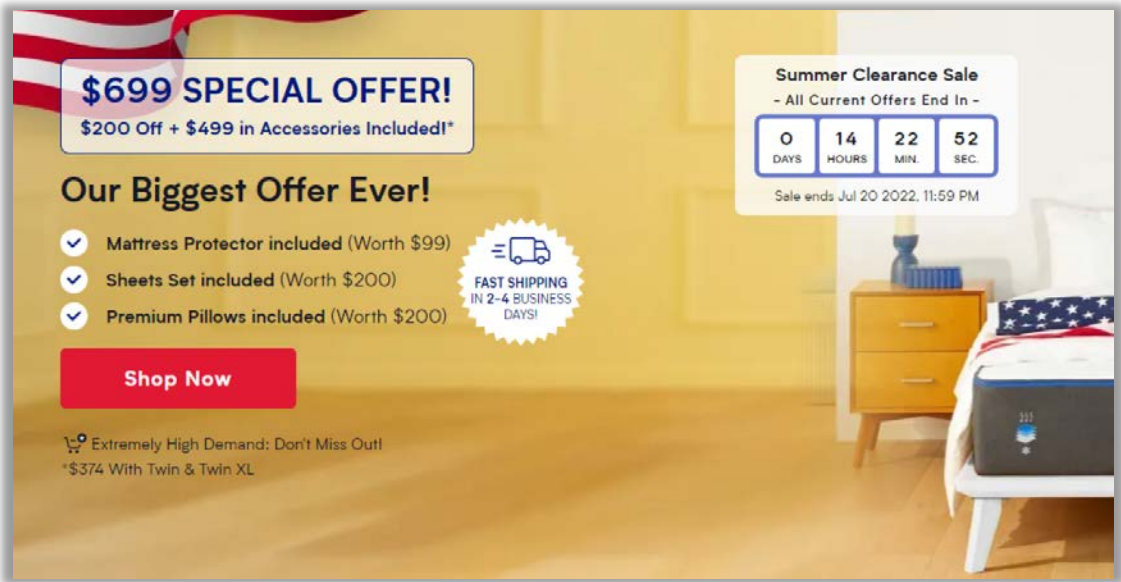


28 Captured July 19, 2022.

1           22.     The sale prominently featured a timer, which said that the sale would expire at  
2 midnight:



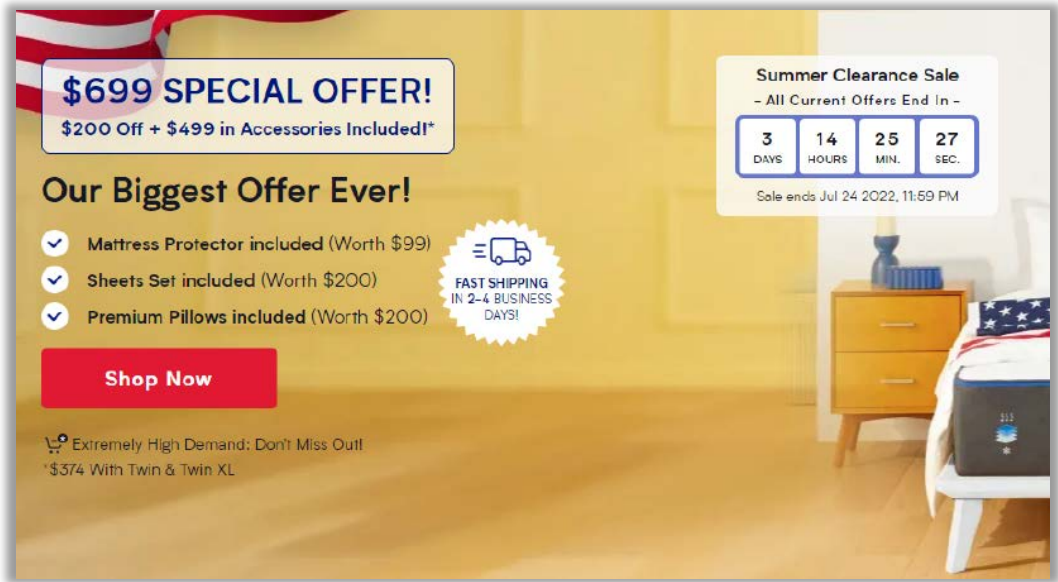
9           23.     But at midnight, the sale did not end. Instead, the same sale remained the next  
10 day, with an updated timer stating that the sale would expire at midnight the following day.



21 Captured July 20, 2022.

22           24.     The same thing happened the next day. Rather than having the sale expire at  
23 midnight, as the website had previously represented, Nectar instead changed the timer to indicate  
24 that the sale would now end at midnight three days later.



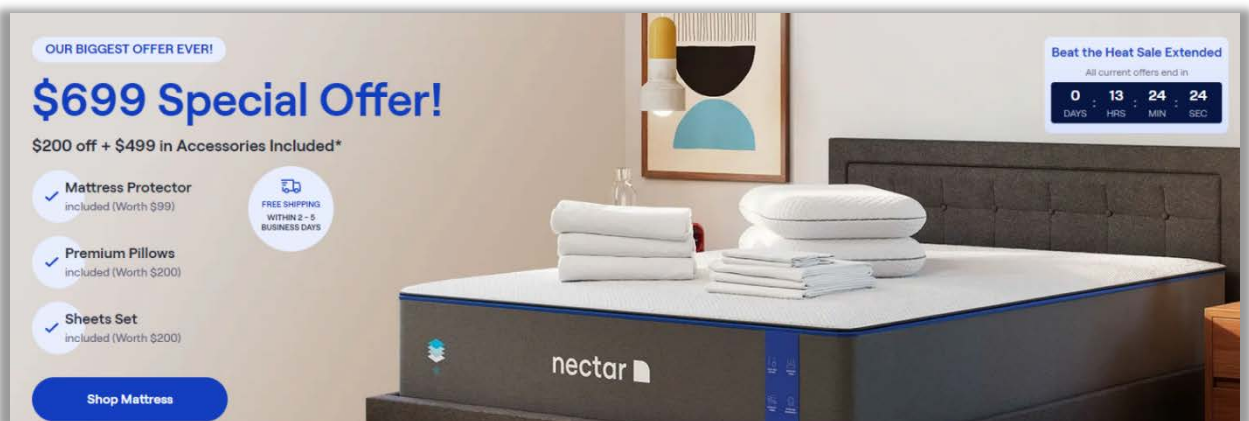


Captured July 21, 2022.

25. That same sale has persisted for months or more, and still has not expired:



Captured July 26, 2022.



Captured August 1, 2022.





Captured August 15, 2022



Captured September 1, 2022.



Captured September 19, 2022.

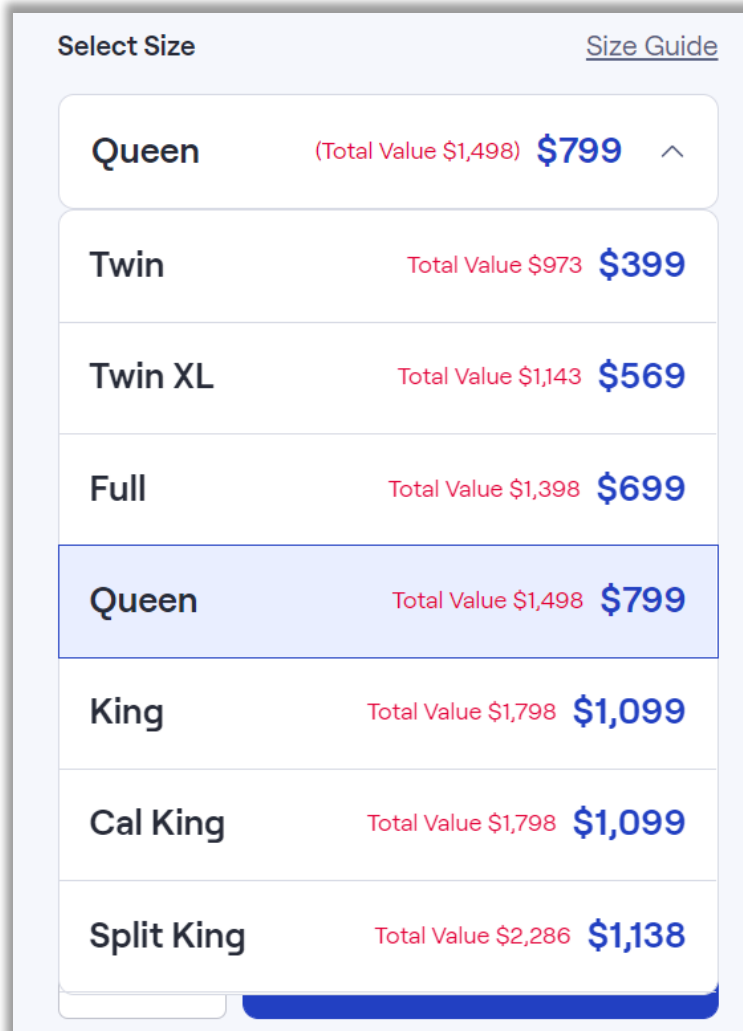
26. This same deception has gone on throughout the entire applicable statute of limitations period.

27. Nectar's website persistently misleads consumers into believing that a sale is ending soon, when in fact it is not.

1 Fake regular prices and fake discounts:

2 28. Nectar's website also lists fake regular prices (that is, prices reflecting the list  
3 price or value of an item) and fake discounts.

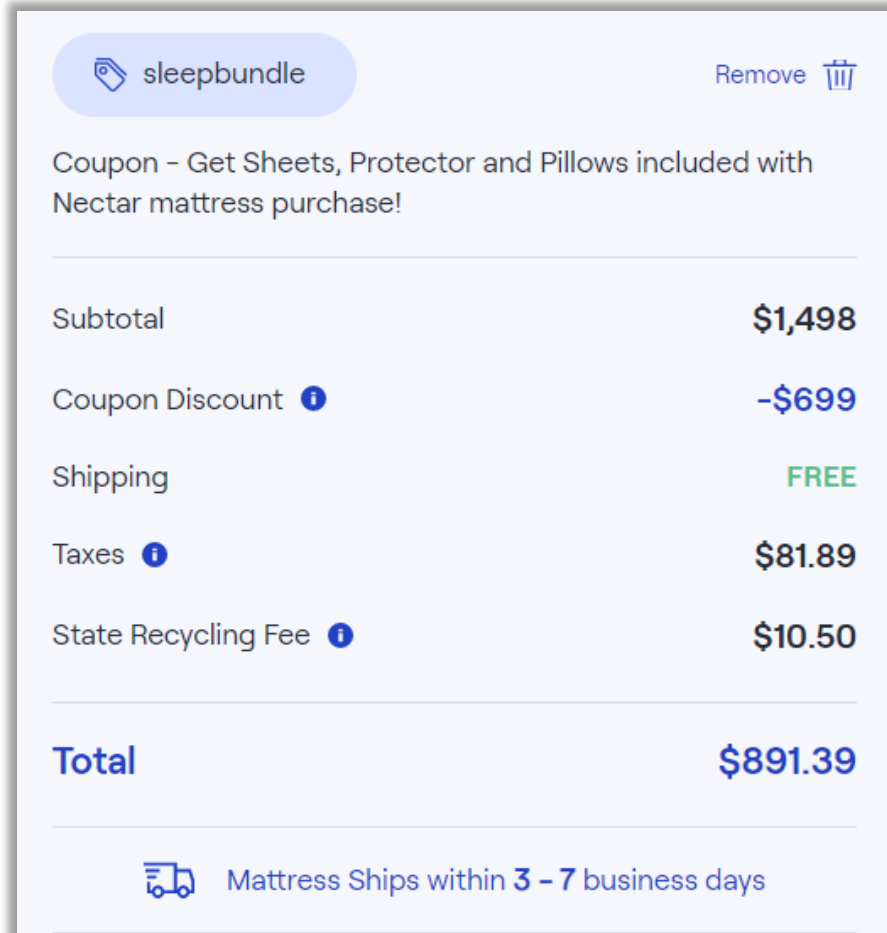
4 29. For example, on September 12, 2022, Nectar advertised a sale that included  
5 various sleep bundles. As part of this sale, Nectar offered its Queen sleep bundle, which had a  
6 purported regular price of \$1,498:



24 30. The sale was advertised as ending at midnight that day:



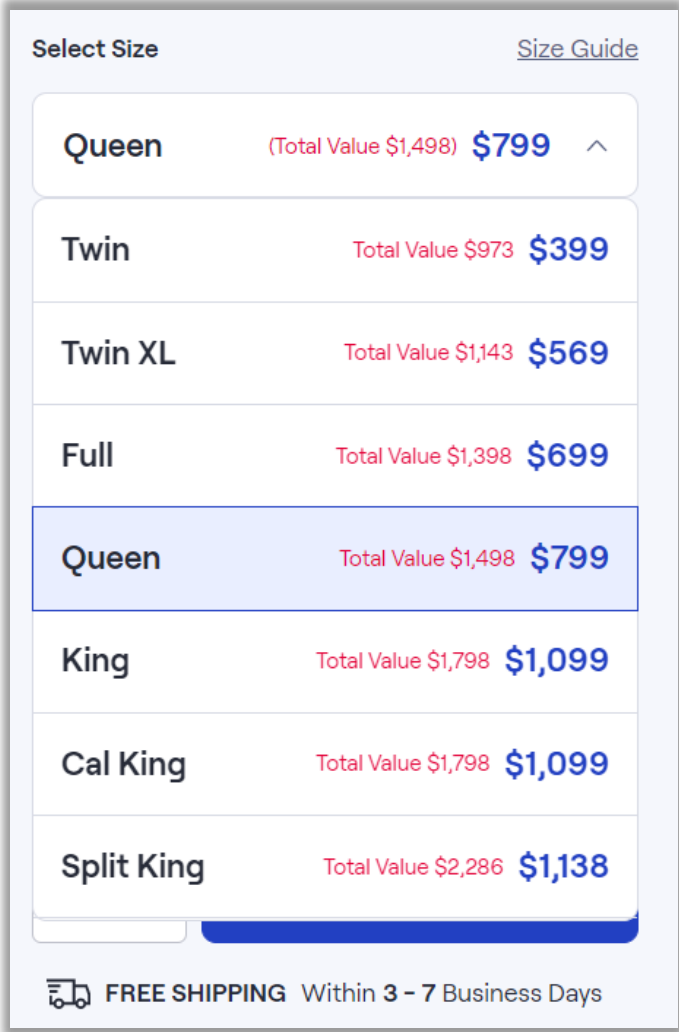
1           31.     In addition, Nectar represented to consumers who purchased the Queen Bundle  
2 during the sale that they would be receiving a \$699 discount from the regular price of \$1498:



18           32.     But the truth is, the Queen Bundle is not regularly priced at \$1498. Its “Total  
19 Value” is never \$1498. Instead, the regular price for the Queen Bundle is always at \$799, and  
20 the customer is receiving no discount from the regular price by buying during the purported sale.

21           33.     Indeed, two days later—after the sale should have expired—the Queen Bundle  
22 was still available for \$799 (and still represented to be on sale, when in fact it was not):

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34. By listing fake regular prices and fake discounts, Nectar misleads consumers into believing that they are getting a good deal.

**B. Nectar’s advertisements violate California law.**

35. As the Federal Trade Commission states in its *Guides Against Deceptive Pricing*, “where an artificial, inflated price was established for the purpose of enabling the subsequent offer of a large reduction - the ‘bargain’ being advertised is a false one.” 16 C.F.R. § 233.1.

36. Advertising such false “bargains” is false, misleading, and unfair. Accordingly, it violates California’s Unfair Competition law, which bans “unlawful, unfair or fraudulent” business acts and practices. *See* Cal. Bus. & Prof. Code § 17200.

37. In addition, California’s Consumer Legal Remedies Act, specifically prohibits “[m]aking false or misleading statements of fact concerning reasons for, existence of, or amounts

1 of, price reductions.” Cal. Civ. Code §1770(1)(13). Nectar’s advertisements make false  
2 statements regarding the reasons for the sale (e.g. “Labor Day Sale,” when in fact the sale is  
3 ongoing and not limited to Labor Day), the existence of the sale, and the amounts of price  
4 reductions.

5 38. Further, under California law, “No price shall be advertised as a former price ...  
6 unless the alleged former price was the prevailing market price ... within three months next  
7 immediately preceding.” Cal. Bus. & Prof. Code §17501. As described in further detail above,  
8 Nectar advertises its products using former prices that were not the prevailing market prices  
9 within the preceding three months.

10 39. So not only are Nectar’s business practices generally deceptive and fraudulent and  
11 therefore banned—they are also specifically prohibited by statute.

12 **C. Nectar’s advertisements harm consumers.**

13 40. Based on Nectar’s advertisements, reasonable consumers would expect that the  
14 listed regular prices are prices that Nectar actually sells its products for. Reasonable consumers  
15 would also expect that, if they purchase during the sale, they will receive a discount from the  
16 regular purchase price.

17 41. In addition, consumers are more likely to buy the product if they believe that the  
18 product is on sale and that they are getting a substantial discount.

19 42. Consumers that are presented with discounts are substantially more likely to make  
20 the purchase. “Nearly two-thirds of consumers surveyed admitted that a promotion or a coupon  
21 often closes the deal, if they are wavering or are undecided on making a purchase.”<sup>1</sup> And, “two-  
22 thirds of consumers have made a purchase they weren't originally planning to make solely based  
23 on finding a coupon or discount,” while “80% [of consumers] said they feel encouraged to make  
24 a first-time purchase with a brand that is new to them if they found an offer or discount.”<sup>2</sup>

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27 <sup>1</sup> <https://www.invespro.com/blog/how-discounts-affect-online-consumer-buying-behavior/>.

28 <sup>2</sup> [RetailMeNot Survey: Deals and Promotional Offers Drive Incremental Purchases Online, Especially Among Millennial Buyers \(prnewswire.com\)](#).

1           43.     Similarly, when consumers believe that an offer is expiring soon, the sense of  
2 urgency makes them more likely to buy a product.<sup>3</sup>

3           44.     Thus, Nectar’s advertisements harm consumers by inducing them to make  
4 purchases based on false information.

5           **D.     Nectar knows that its advertisements are misleading.**

6           45.     Nectar is aware that publishing fake sales, regular prices, and discounts mislead  
7 consumers. They know this because they were previously referred to the Federal Trade  
8 Commission for doing the same thing.

9           46.     In December 2019, the National Advertising Division of the Better Business  
10 Bureau (NAD) reported Nectar to the Federal Trade Commission for advertising a fake limited-  
11 time sale.

12          47.     In that case, Nectar had advertised, “LIMITED OFFER: \$125 Off + 2 Free  
13 Pillows.” The National Advertising Bureau “determined that the claim was misleading to  
14 consumers,” because there was no evidence that “the Nectar mattresses were ever offered for  
15 sale at the ‘regular’ price prominently displayed on its website or in its retail advertising.”  
16 Further, there was “no evidence that Nectar’s offer for ‘2 Free Pillows’ had been made available  
17 to consumers for a limited amount of time.”<sup>4</sup>

18          48.     Similarly, Nectar is aware that the representations that it makes to consumers  
19 about its products must be truthful. Nectar and its parent company, Resident Home, were  
20 investigated by the FTC for falsely claiming that its products are made or assembled in the USA,  
21 when in fact they are wholly imported from China.<sup>5</sup> Resident Home, Nectar’s parent company,  
22 was ultimately fined for this practice.<sup>6</sup>

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24           <sup>3</sup> <https://cxl.com/blog/creating-urgency/> (addition of a countdown timer increased  
25 conversion rates from 3.4%-10%); [Dynamic email content leads to 400% increase in conversions  
for Black Friday email | Adestra \(uplandsoftware.com\)](#) (400% higher conversation rate for ad  
26 with countdown timer).

27           <sup>4</sup> [NAD Refers Nectar Sleep to the FTC \(bbbprograms.org\)](#)

27           <sup>5</sup> [https://www.ftc.gov/news-events/news/press-releases/2018/03/nectar-brand-llc-agrees-  
28 settle-ftc-charges-companys-claims-about-chinese-made-mattresses-being](https://www.ftc.gov/news-events/news/press-releases/2018/03/nectar-brand-llc-agrees-settle-ftc-charges-companys-claims-about-chinese-made-mattresses-being)

28           <sup>6</sup> [https://www.ftc.gov/news-events/news/press-releases/2021/10/ftc-orders-made-usa-  
repeat-offender-pay-funds](https://www.ftc.gov/news-events/news/press-releases/2021/10/ftc-orders-made-usa-repeat-offender-pay-funds)

1           49.     Despite this, Nectar has continued its practice of making false representations  
2 about limited-time sales, regular prices, and discounts.

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

4           50.     On May 8, 2020, Ms. Hammock bought a Queen-sized Nectar mattress, a Nectar  
5 mattress protector, a luxury bed sheet set, and two premium standard size Nectar pillows. She  
6 purchased the items from Nectar’s website, nectarsleep.com, while living in Daly City,  
7 California.<sup>7</sup>

8           51.     Ms. Hammock purchased the mattress and bedding for \$799 plus tax. The  
9 products were prominently advertised as being on sale for a limited time. Ms. Hammock’s  
10 invoice represented that she was receiving a substantial discount for the bundle that she ordered.  
11 The invoice represented that the combined regular price of the items was \$1,198 plus tax, and  
12 that Ms. Hammock was receiving a total discount of \$399 for the mattress, mattress protector,  
13 luxury bed sheet set, and pillows.

14          52.     Ms. Hammock read and relied on the representations on the website that the  
15 products had the published regular price, and that she was receiving a discount as compared to  
16 the regular price. She would not have purchased the product if she knew that the Nectar Products  
17 were not on sale, and that she was paying full price.

18          **F.     Nectar breached its contract.**

19          53.     When Ms. Hammock purchased and paid for the Nectar Products she bought, she  
20 accepted an offer that Nectar made, and thus, a contract was formed. The offer was to provide a  
21 mattress and bedding having a market value (i.e., “Total Value”) of \$1,198, for a discounted  
22 price of \$799; and to provide a discount of \$399 off the regular price of the mattress and bedding  
23 Ms. Hammock purchased.

24          54.     Nectar and Ms. Hammock entered a contract. The contract was memorialized in  
25 Nectar’s order confirmation. The order confirmation lists the market value of the items that  
26 Nectar promised to provide, and also specified the dollar amount of the discount off the regular  
27 price that Nectar promised to provide Ms. Hammock.

28 \_\_\_\_\_  
<sup>7</sup> Ms. Hammock also purchased a bed from Nectar, which she later returned.



1           55.     The market value of the mattress and bedding Ms. Hammock would receive, and  
2 the amount of the discount she would be provided off the regular price of those items, were  
3 specific and material terms of the contract.

4           56.     Nectar breached its contracts by failing to provide Ms. Hammock with products  
5 with a market value equal to the regular price displayed on its website, and by failing to provide  
6 the discount promised.

7 **V.     Class action allegations.**

8 **A.     The California Class.**

9           57.     Plaintiff brings her claims for the following class: all persons who, while in the  
10 state of California and within the applicable statute of limitations period, purchased one or more  
11 Nectar Products advertised at a discount on Nectar’s website.

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

20 ***Numerosity & Ascertainability***

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

23           60.     Class members can be identified through Defendant’s sales records and public  
24 notice.

25 ***Predominance of Common Questions***

26           61.     There are questions of law and fact common to the proposed class. Common  
27 questions of law and fact include, without limitation:

28           (1) whether Nectar made false or misleading statements of fact in its advertisements;

- 1 (2) whether Defendant violated California’s consumer protection statutes;  
2 (3) whether Defendant committed a breach of contract;  
3 (4) whether Defendant committed a breach of an express or implied warranty;  
4 (5) damages needed to reasonably compensate Plaintiff and the proposed class.

5 ***Typicality & Adequacy***

6 62. Plaintiff’s claims are typical of the proposed class. Like the proposed class,  
7 Plaintiff purchased the Nectar Products advertised at a discount on Nectar’s website. There are  
8 no conflicts of interest between Plaintiff and the class.

9 ***Superiority***

10 63. A class action is superior to all other available methods for the fair and efficient  
11 adjudication of this litigation because individual litigation of each claim is impractical. It would  
12 be unduly burdensome to have individual litigation of millions of individual claims in separate  
13 lawsuits, every one of which would present the issues presented in this lawsuit.

14 **VI. Claims.**

15 **First Cause of Action:**

16 **Violation of California’s False Advertising Law §§17501 et. seq.**

17 **(By Plaintiff and the class)**

18 64. Plaintiff incorporates each and every factual allegation set forth above.

19 65. Plaintiff brings this cause of action on behalf of herself and members of the class.

20 66. Defendant has violated Section 17501 of the Business and Professions Code.

21 67. As alleged more fully above, Defendant advertises former prices on its website by  
22 using words and phrases such as “Total Value” or “Worth,” and/or displaying discounts using  
23 words and phrases such as “Discount” or “Coupon Discount.”

24 68. The former prices advertised by Defendant were not the prevailing market prices  
25 for the products within three months preceding publication of the advertisement.

26 69. Defendant’s former price advertisements do not state clearly, exactly, and  
27 conspicuously when, if ever, the former prices prevailed. Nectar’s advertisements do not indicate  
28 whether or when the purported former prices were offered at all.





1 advertising limited-time offers that were not limited in time, using fake regular prices, and  
2 advertising fake discounts.

3 91. Defendant violated, and continues to violate, Section 1770(a)(13) of the  
4 California Civil Code by making false or misleading statements of fact concerning reasons for,  
5 existence of, or amounts of, price reductions on its website. Defendant has violated Section  
6 1770(a)(13) by (1) misrepresenting the regular price of products on its website, (2) advertising  
7 discounts and savings that are exaggerated or nonexistent, (3) misrepresenting that the discounts  
8 and savings on its website are available only for a limited time, when in fact they are not, and (4)  
9 misrepresenting that the discounts and savings are unusually large, when in fact they are  
10 regularly available.

11 92. Defendant violated, and continues to violate, Section 1770(a)(5) of the California  
12 Civil Code by representing that products offered for sale on its website have characteristics or  
13 benefits that they do not have. Defendant represents that the value of its products is greater than  
14 it actually is by advertising inflated regular prices and fake discounts for products.

15 93. Defendant violated, and continues to violate, Section 1770(a)(9) of the California  
16 Civil Code. Defendant violates this by advertising its products as being offered at a discount,  
17 when in fact Defendant does not intend to sell the products at a discount.

18 94. Defendant's representations were likely to deceive, and did deceive, Plaintiff and  
19 reasonable consumers. Defendant knew, or should have known through the exercise of  
20 reasonable care, that these statements were inaccurate and misleading.

21 95. Defendant's misrepresentations were intended to induce reliance, and Plaintiff  
22 saw, read, and reasonably relied on them when purchasing Nectar Products. Defendant's  
23 misrepresentations were a substantial factor in Plaintiff's purchase decision.

24 96. In addition, class-wide reliance can be inferred because Defendant's  
25 misrepresentations were material, i.e., a reasonable consumer would consider them important in  
26 deciding whether to buy the Nectar Products.

27 97. Defendant's misrepresentations were a substantial factor and proximate cause in  
28 causing damages and losses to Plaintiff and the class.









1           124. As a direct and proximate result of Nectar’s breaches, Plaintiff and class members  
2 were deprived of the benefit of their bargained-for exchange, and have suffered damages in an  
3 amount to be established at trial.

4                                   **Sixth Cause of Action: Breach of Express Warranty**

5                                   **(by Plaintiff and the class)**

6           125. Plaintiff incorporates each and every factual allegation set forth above.

7           126. Plaintiff brings this count individually and for the class.

8           127. Defendant, as the designer, manufacturer, marketer, distributor, supplier, and/or  
9 seller of the Nectar Products, issued material, written warranties by advertising that the Products  
10 had a market value equal to the regular price displayed on Nectar’s website. This was an  
11 affirmation of fact about the Products (i.e., a representation about the market value) and a  
12 promise relating to the goods.

13           128. This warranty was part of the basis of the bargain and Plaintiff and members of  
14 the class relied on this warranty.

15           129. In fact, the Nectar Products did not have the stated market value. Thus, the  
16 warranty was breached.

17           130. Plaintiff provided Defendant with notice of this breach of warranty, by mailing a  
18 notice letter to Defendant’s headquarters, on September 13, 2022.

19           131. Plaintiff and the class were injured as a direct and proximate result of Defendant’s  
20 breach, and this breach was a substantial factor in causing harm, because (a) they would not have  
21 purchased Nectar Products if they had known that the warranty was false, or (b) they overpaid  
22 for the Products because the Products are sold at a price premium due to the warranty.

23                                   **Seventh Cause of Action: Breach of Implied Warranty**

24                                   **(by Plaintiff and the class)**

25           132. Plaintiff incorporates each and every factual allegation set forth above.

26           133. Plaintiff brings this count individually and for the class.

27           134. As described in greater detail above, Defendant impliedly warranted that the  
28 Nectar Products had a market value equal to the regular price displayed on Nectar’s website.

1           135. This warranty was part of the basis of the bargain and Plaintiff and members of  
2 the class relied on this warranty.

3           136. In fact, the Nectar Products did not have a market value equal to the regular price  
4 displayed. Thus, the warranty was breached.

5           137. Plaintiff provided Defendant with notice of this breach of warranty, by mailing a  
6 notice letter to Defendant's headquarters, on September 13, 2022.

7           138. Plaintiff and the class were injured as a direct and proximate result of Defendant's  
8 breach, and this breach was a substantial factor in causing harm, because (a) they would not have  
9 purchased Nectar Products if they had known the truth, or (b) they overpaid for the Products  
10 because the Products are sold at a price premium due to the warranty.

11                           **Eighth Cause of Action: Quasi-Contract/Unjust Enrichment**

12   **(by Plaintiff and the class)**

13           139. Plaintiff incorporates each and every factual allegation set forth above.

14           140. Plaintiff alleges this claim individually and on behalf of the class.

15           141. As alleged in detail above, Defendant's false and misleading advertising caused  
16 Plaintiff and the Class to purchase Nectar Products and to pay a price premium for these  
17 products.

18           142. In this way, Defendant received a direct and unjust benefit, at Plaintiff's expense.

19           143. Plaintiff and the class seek restitution.

20                           **Ninth Cause of Action: Negligent Misrepresentation**

21   **(by Plaintiff and the class)**

22           144. Plaintiff incorporates each and every factual allegation set forth above.

23           145. Plaintiff alleges this claim individually and on behalf of the class.

24           146. As alleged more fully above, Defendant made false representations and material  
25 omissions of fact to Plaintiffs and class members concerning the existence, duration, and/or  
26 nature of the discounts and savings advertised on its website.

27           147. These representations were false.

28

1           148. When Defendant made these misrepresentations, it knew or should have known  
2 that they were false. Defendant had no reasonable grounds for believing that these  
3 representations were true when made.

4           149. Defendant intended that Plaintiff and class members rely on these representations  
5 and Plaintiff and class members read and reasonably relied on them.

6           150. In addition, class-wide reliance can be inferred because Defendant's  
7 misrepresentations were material, i.e., a reasonable consumer would consider them important in  
8 deciding whether to buy the Nectar Products.

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

11           152. Plaintiff and class members were injured as a direct and proximate result of  
12 Defendant's conduct because (a) they would not have purchased Nectar's Products if they had  
13 known that the representations were false, and/or (b) they overpaid for the Products because the  
14 Products are sold at a price premium due to the misrepresentation.

15                           **Tenth Cause of Action: Intentional Misrepresentation**  
16                           **(by Plaintiff and the class)**

17           153. Plaintiff incorporates each and every factual allegation set forth above.

18           154. Plaintiff alleges this claim individually and on behalf of the class.

19           155. As alleged more fully above, Defendant made false representations and material  
20 omissions of fact to Plaintiffs and class members concerning the existence, duration, and/or  
21 nature of the discounts and savings advertised on its website.

22           156. These representations were false.

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

25           158. Defendant intended that Plaintiff and class members rely on these representations  
26 and Plaintiff and class members read and reasonably relied on them.

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1           159. In addition, class-wide reliance can be inferred because Defendant's  
2 misrepresentations were material, i.e., a reasonable consumer would consider them important in  
3 deciding whether to buy the Nectar Products.

4           160. Defendant's misrepresentations were a substantial factor and proximate cause in  
5 causing damages and losses to Plaintiff and class members.

6           161. Plaintiff and class members were injured as a direct and proximate result of  
7 Defendant's conduct because (a) they would not have purchased Nectar's Products if they had  
8 known that the representations were false, and/or (b) they overpaid for the Products because the  
9 Products are sold at a price premium due to the misrepresentation.

10 **VII. Relief.**

11           162. Plaintiff seeks the following relief for herself and the class:

- 12           • An order certifying the asserted claims, or issues raised, as a class action;
- 13           • A judgment in favor of Plaintiff and the proposed class;
- 14           • Damages, treble damages, and punitive damages where applicable;
- 15           • Restitution;
- 16           • Disgorgement, and other just equitable relief;
- 17           • Pre- and post-judgment interest;
- 18           • An injunction prohibiting Defendants' deceptive conduct, as allowed by law;
- 19           • Reasonable attorneys' fees and costs, as allowed by law;
- 20           • Any additional relief that the Court deems reasonable and just.

21 Dated: September 21, 2022

22 By. 

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**Demand for Jury Trial**

Plaintiff and the class demand the right to a jury trial on all claims so triable.

Dated: September 21, 2022

By   
\_\_\_\_\_

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