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FILED
Superior Court of California
County of Los Angeles

DEC 08 2016

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THE PEOPLE OF THE STATE OF CALIFORNIA

By Fax

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

BC 6 43 036

THE PEOPLE OF THE STATE OF CALIFORNIA,

Case No. _____

Plaintiff,

COMPLAINT FOR EQUITABLE RELIEF AND CIVIL PENALTIES FOR VIOLATIONS OF:

v.

J.C. PENNEY CORPORATION, INC., a Delaware Corporation, and DOES 1-10, inclusive,

(1) California Business & Professions Code §§ 17200, *et seq.* (Unfair Competition Law); and

Defendants.

(2) California Business & Professions Code §§ 17500, *et seq.* (False Advertising Law).

NO FEE GOVT CODES SEC. 6183
AMOUNT RECOVERABLE PURSUANT TO 6103.5 GC § 1436
PLUS A ONE TIME ADMINISTRATIVE FEE UPON JUDGEMENT - 1 -
* THE PARTY BECOMES A JUDGEMENT CREDITOR

COMPLAINT FOR EQUITABLE RELIEF AND CIVIL PENALTIES

11/10/16 9:17:00 AM

1 The People of the State of California ("People") allege the following against
2 Defendant J.C. Penney Corporation, Inc. ("J.C. Penney"):

3 I. INTRODUCTION

4 1. The People bring this civil law enforcement action against J.C. Penney to
5 address the unlawful, unfair, and fraudulent business practice commonly referred to as "false
6 reference pricing."¹ "False reference pricing" is the act of misrepresenting the original or regular
7 price of some good that is purportedly offered at a "sale price," a business practice that J.C.
8 Penney engages in to increase sales. To illustrate, J.C. Penney may advertise a handbag for \$125,
9 representing that this constitutes a 50% discount off of its "regular" price of \$250, even though
10 J.C. Penney did not previously sell the handbag at this purported "regular" price.

11 2. Retailers employ false reference pricing because it misleads consumers into
12 believing they are "getting a good deal," thereby increasing sales. The United States Court of
13 Appeals for the Ninth Circuit succinctly stated: "Most consumers have, at some point, purchased
14 merchandise that was marketed as being 'on sale' because the proffered discount seemed too
15 good to pass up. Retailers, well aware of consumers' susceptibility to a bargain, therefore have
16 an incentive to lie to their customers by falsely claiming that their products have previously sold
17 at a far higher 'original' price in order to induce customers to purchase merchandise at a
18 purportedly marked-down 'sale' price. Because such practices are misleading—and effective—
19 the California legislature has prohibited them." *Hinojos v. Kohl's Corp.*, 718 F.3d 1098, 1101
20 (9th Cir. 2013).

21 3. J.C. Penney has engaged in false reference pricing as a frequent business
22 practice, thereby misleading consumers. In fact, the People's investigation has uncovered that
23 J.C. Penney's use of false reference prices applies to thousands of products. Further, J.C. Penney
24 continues to engage in such deceptive (and illegal) acts, despite representing to a federal district
25 court (in November 2015) that it would no longer do so: "JCPenney agrees that any former price

26 ¹ In addition to the instant action, the People are contemporaneously filing similar actions
27 against Kohl's Department Stores, Inc., Macy's, Inc., and Sears Holdings Management
28 Corporation and Sears, Roebuck & Co. in the Los Angeles County Superior Court. The People
anticipate submitting notices of related cases, and thereafter requesting that all of these matters be
coordinated.

EXHIBIT

1 to which JCPenney refers in its price comparison advertising will be the actual, bona fide price at
2 which the item was openly and actively offered for sale, for a reasonably substantial period of
3 time, in the recent, regular course of business, honestly and in good faith.”² In that same private
4 class action, J.C. Penney later further represented to the district court that it had, in fact,
5 “implemented a new price-comparison advertising policy” as of November 2015.³

6 4. Despite these public representations, J.C. Penney continues to engage in
7 this misleading and deceptive business practice. While the private plaintiffs’ bar has actively
8 pursued retailers, including J.C. Penney, for false reference pricing, it has been unable to curb this
9 industry practice. It is, therefore, incumbent on the People to take action, and the People
10 respectfully request this Court’s assistance to protect Californians from such misleading and
11 deceptive business acts and practices.

12 **II. THE PARTIES**

13 5. The People bring this civil law enforcement action by and through Michael
14 N. Feuer, the Los Angeles City Attorney, pursuant to statutory authority provided under
15 California Business and Professions Code sections 17200, *et seq.* (“Unfair Competition Law”)
16 and 17500, *et seq.* (“False Advertising Law”).⁴

17 6. J.C. Penney Corporation, Inc. is the principal operating subsidiary of J.C.
18 Penney Company, Inc. J.C. Penney Company, Inc., a holding company, is a publicly-traded
19 Delaware corporation (NYSE: JCP), with its principal executive offices in Plano, Texas.
20 According to J.C. Penney Company, Inc.’s 2015 Annual Report (for the fiscal year ending
21 January 30, 2016) filed with the U.S. Securities & Exchange Commission, J.C. Penney sells
22 family apparel and footwear, accessories, fine and fashion jewelry, beauty products, and home
23 furnishings. J.C. Penney sells national brands, as well as private and exclusive branded products
24 that it promotes as being available “only at” J.C. Penney.

25
26 ² See Settlement Agreement (Dkt. 246-3) at pp. 14-15, *Spann v. J.C. Penney Corp., Inc.*,
No. 8:12-cv-00215-FMO-KES (C.D. Cal., Nov. 10, 2015).

27 ³ See J.C. Penney Response to Objection to Class Settlement (Dkt. 267) at p. 2 (July 28,
2016).

28 ⁴ All further references are to California codes, unless otherwise noted.

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12/08/2016

1 7. The true names and capacities of Defendants sued herein as Does 1 through
 2 10, inclusive, are unknown to the People. The People therefore sue these Defendants by such
 3 fictitious names. When the true names and capacities of these Defendants have been ascertained,
 4 the People will seek leave of this Court to amend this Complaint to insert in lieu of such fictitious
 5 names the true names and capacities of the fictitiously-named Defendants. The People are
 6 informed and believe, and thereon allege, that these Defendants participated in, and in some part
 7 are responsible for, the illegal acts alleged herein. Each reference in this Complaint to J.C.
 8 Penney is also a reference to all Defendants sued as Does.

9 8. Whenever reference is made in this Complaint to any act or omission of
 10 J.C. Penney, such reference shall be deemed to mean that J.C. Penney's officers, directors,
 11 employees, agents, and/or representatives did, ratified, or authorized such act or omission while
 12 actively engaged in the management, direction, or control of the affairs of J.C. Penney, or while
 13 acting within the course and scope of their duties.

14 9. Whenever reference is made in this Complaint to any act or omission of
 15 Defendants, such reference shall be deemed to mean the act or omission of each Defendant acting
 16 jointly and severally.

17 **III. JURISDICTION AND VENUE**

18 10. Venue is proper in Los Angeles County, pursuant to Business and
 19 Professions Code section 17204, because the violations alleged in this Complaint occurred in the
 20 City and County of Los Angeles. This Court has jurisdiction pursuant to Article VI, section 10 of
 21 the California Constitution and section 393 of the Code of Civil Procedure.

22 11. This Court has personal jurisdiction over J.C. Penney because: (i) a
 23 substantial portion of the wrongdoing alleged in this Complaint took place in the State of
 24 California, (ii) J.C. Penney is authorized to do business in this state, (iii) J.C. Penney has
 25 sufficient minimum contacts with this state, and/or (iv) J.C. Penney otherwise intentionally avails
 26 itself of the markets in this state through the promotion, marketing, and sale of its products in this
 27 state, thus rendering this Court's exercise of jurisdiction permissible under traditional notions of
 28 fair play and substantial justice.

12/16/2011

IV. J.C. PENNEY – COMPANY PROFILE

12. J.C. Penney, one of the largest retailers in the United States, directly markets its merchandise to consumers in the City of Los Angeles, across the State of California, and throughout the nation via its e-commerce website (www.jcpenney.com) and other mediums.

13. In 2015 alone, J.C. Penney invested over \$792 million on direct advertising.

14. J.C. Penney’s marketing strategies have proven to be successful. In 2015, J.C. Penney grossed over \$12.62 billion in total net sales. In addition, J.C. Penney’s website now has hundreds of thousands of visitors daily. However, J.C. Penney’s success has, in significant part, been the product of unlawful, unfair, and fraudulent marketing and advertising practices.

15. J.C. Penney’s misleading and deceptive false price advertising scheme has played a major role in J.C. Penney’s overall marketing and business strategy, and J.C. Penney has leveraged its marketing expertise and technology to perpetrate a false price advertising scheme of massive proportions to the detriment of California consumers.

V. FALSE REFERENCE PRICING – AN OVERVIEW

16. A retailer’s “reference price,” the stated price presented alongside the retailer’s “on sale” price, provides consumers a reference point with which to evaluate the prospective purchase. The reference price is often described with terms such as “Regular Price,” “Original Price,” “Former Price,” and/or “List Price.”

17. A retailer’s reference price impacts the consumer’s behavior in the marketplace. As the reference price increases, so does the consumer’s perception of the value of the transaction, the consumer’s willingness to make the purchase, and the amount of money the consumer is willing to pay for the product.

18. When the reference price is bona fide and truthful, it helps consumers make informed purchasing decisions. In contrast, consumers are harmed when merchants advertise their products alongside falsely-inflated former prices, *i.e.*, “false reference prices,” as consumers are provided a false sense of value. In this situation, the reference price is no longer informative

12/10/2015

1 but deceptive because consumers are deprived of a full and fair opportunity to accurately evaluate
2 the specific sales offer in its relevant market.

3 19. The hidden nature of false discount pricing makes it effective. Consumers,
4 unaware of the practices at issue, instead complete their purchases feeling like they “got a good
5 deal.” In addition, retailers make falsely-discounted sales without suspicion because consumers
6 do not have access to the comprehensive historical pricing information necessary to reveal the
7 fraud.

8 20. Beyond the adverse impact upon consumers’ welfare, the practice of
9 employing false reference pricing also negatively affects the integrity of competition in retail
10 markets. A retailer’s use of false reference prices constitutes an unfair method of competition,
11 injuring honest competitors that sell the same or similar products, or otherwise compete in the
12 same market, using only valid and accurate reference prices.

13 21. Over the past forty years, a substantial body of research on the effects of
14 reference prices (also referred to in the relevant literature as “advertised reference prices,”
15 “external reference prices,” and “comparative prices”) shows that reference prices: (i) impact
16 consumers’ perceptions of the value of the sales deal; (ii) impact consumers’ willingness to make
17 the purchase; and (iii) decrease consumers’ intentions to search for a lower price. Consumers
18 form an “internal reference price,” also known as an “expected price,” an “aspirational price” (a
19 price the consumer would like to pay), or a “normative price” (a price that is “fair”). Consumers
20 store and retrieve the “internal reference price” from memory to judge the merits of a specific
21 price offer. Even where an advertised reference price is exaggerated and not itself completely
22 believed, perceptions of value increase in comparison to a promotion with no advertised reference
23 price. Thus, retailers’ use of reference prices influences consumers’ “internal reference price,”
24 and subsequently, increase consumers’ willingness to purchase the product.

25 22. As a result of its effectiveness as a marketing practice, the use of false
26 reference prices has proliferated recently, in both frequency and in degree. *See, e.g.,* David A.
27 Friedman, *Reconsidering Fictitious Pricing*, 100 Min. L. Rev. 921, 923 (2016).

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VI. SPECIFIC LAWS RELATING TO FALSE REFERENCE PRICING

23. Under California law, “[n]o price shall be advertised as a former price of any advertised thing, unless the alleged former price was the prevailing market price...within three months next immediately preceding the publication of the advertisement.” CAL. BUS. & PROF. CODE § 17501.

24. With respect to sales to consumers, California law prohibits “[m]aking false or misleading statements of fact concerning reasons for, existence of, or amounts of price reductions.” CAL. CIV. CODE § 1770(a)(13).

VII. J.C. PENNEY CONTINUES TO ENGAGE IN DECEPTIVE ADVERTISING

A. J.C. Penney’s Deceptive “False Reference Pricing”

25. J.C. Penney creates an illusion of savings by engaging in false reference pricing.

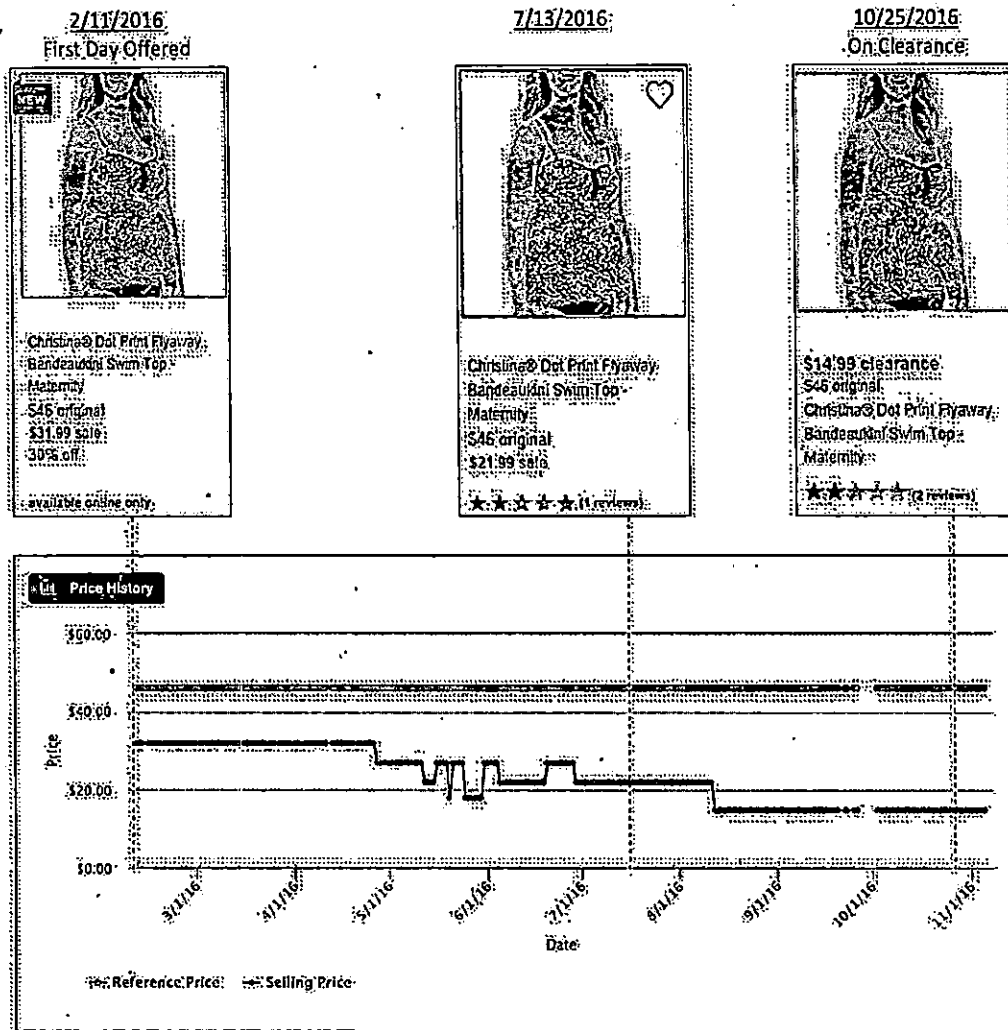
26. J.C. Penney intends that customers will perceive that its reference prices actually stand for former prices regularly charged by J.C. Penney.

27. J.C. Penney deliberately and artificially sets the false reference prices high so that customers feel that they are getting a bargain when purchasing products. J.C. Penney also prominently advertises that its false discounts are being offered for only a limited time in order to create a false sense of urgency and to mislead customers that they will miss out on the purported markdowns if they do not buy the products immediately.

28. For example, on February 11, 2016, J.C. Penney first offered for sale online a “Christina® Dot Print Flyaway Bandeaukini Swim Top – Maternity,” a J.C. Penney exclusive in-house product, as shown in the screenshot below:

EXHIBIT 7

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29. On the first day J.C. Penney offered this item for sale on its website, it was advertised with an "original" price of \$46 and a "sale" price of \$31.99, which J.C. Penney touted as a 30% discount.

30. However, the purported "original" price of \$46 was a false reference price. As reflected in the screenshot and price history chart above, J.C. Penney did not offer the item for sale online for any more than \$31.99. In fact, as time went on, the price of the item actually decreased through additional false discounts. On July 13, 2016, for example, J.C. Penney offered the item at a "sale" price of \$21.99, falsely advertising a discount from the \$46 false reference

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1 price. Later, on October 25, 2016, J.C. Penney offered the item at a "clearance" price of \$14.99,
2 falsely advertising an even larger discount from the \$46 false reference price.

3 31. Another example is a "Liz Claiborne® Serifina Shopper Bag," another J.C.
4 Penney exclusive in-house product, which J.C. Penney first offered for sale online on June 8,
5 2016, as shown in the screenshot below:


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7 6/8/2016 8/8/2016 9/15/2016
First Day Offered


8 **NEW**



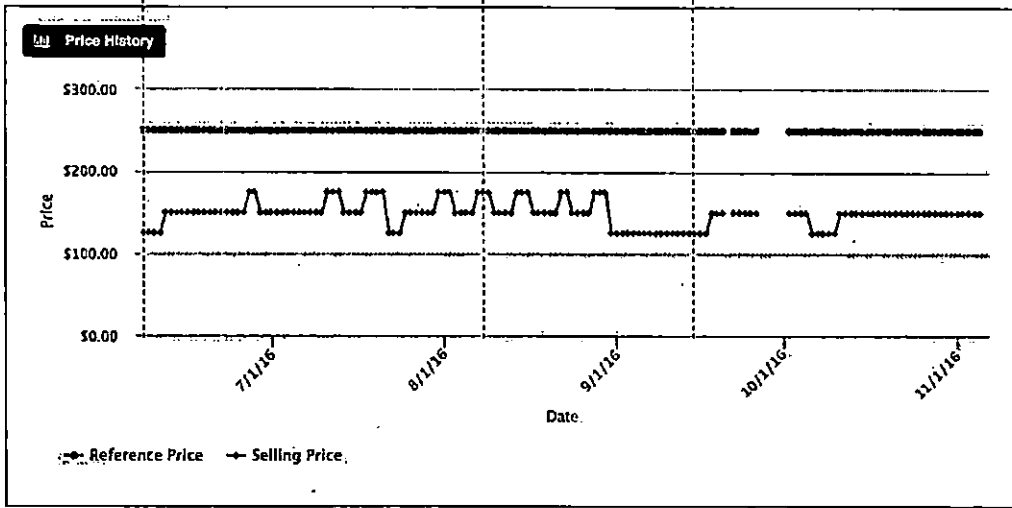
13 ■ ■
Liz Claiborne® Serifina
14 Shopper Bag
15 \$250 original
\$125 sale
16 available online only



13 ■ ■
Liz Claiborne® Serifina
14 Leather Shopper Bag
15 \$250 original
\$175 sale



13 ■ ■
Liz Claiborne® Serifina
14 Leather Shopper Bag
15 \$250 original
\$125 sale



11/10/2016

1 32. On the first day J.C. Penney offered this item for sale on its website, it was
2 advertised with an "original" price of \$250 and a "sale" price of \$125.

3 33. However, the purported "original" price of \$250 was a false reference
4 price. As the screenshot and price history chart above shows, J.C. Penney did not offer the item
5 for sale online for more than \$175, even though J.C. Penney consistently advertised a purported
6 "original" price of \$250 for the item.

7 **B. J.C. Penney's Deceptive False Discount Scheme of "False Free Offers"**




8 34. J.C. Penney also implements its false reference price scheme by advertising
9 products as having "free" offers. These related representations are likewise misleading to
10 California consumers, as they are illusory and result in purchasers being misled as to their
11 perceived bargained-for exchange.

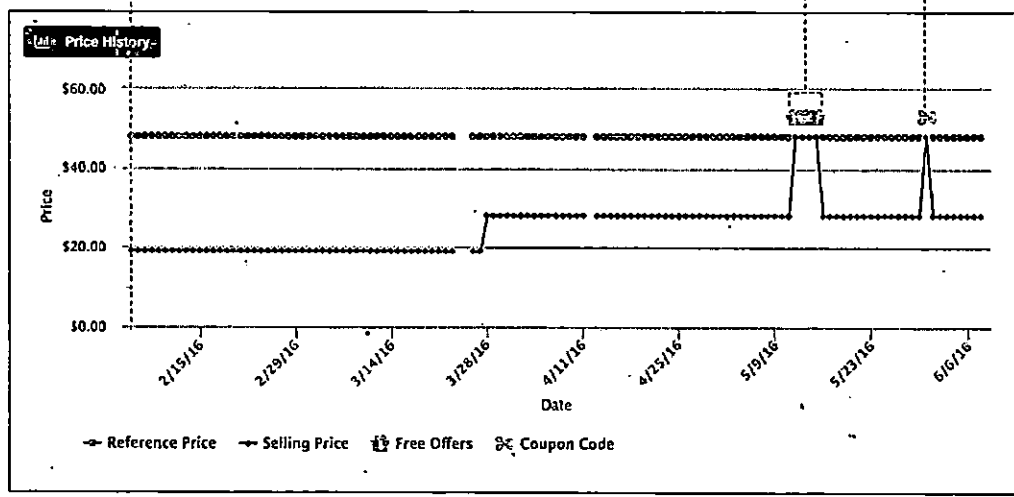
12 35. A "false free offer" commonly occurs when a product is advertised for sale
13 as "Buy 1 Get 1 Free" or "Buy 1 Get 1 For A Penny," when in truth that product is never actually
14 offered (as a single item) at the false and inflated reference price. Similarly, an offer that states
15 "2 or more for \$x each," where the total amount of money for the two items is half of the listed
16 price, constitutes a false free offer because the product is likewise never offered (as a single item)
17 at the listed reference price.

18 36. An example of J.C. Penney using a "false free offer" in combination with
19 false reference pricing is J.C. Penney's "St. John's Bay® Long-Sleeve Lace-Up Sweater – Tall,"
20 another exclusive in-house product, which J.C. Penney first offered for sale online on February 5,
21 2016, as shown in the screenshot below:
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| <p>2/5/2016 First Day Offered</p>  <p>St. John's Bay® Long-Sleeve Lace-Up Sweater - Tall \$48 original \$18.99 sale 60% off</p> <p>available online only</p> | <p>5/12/2016 - 5/15/2016 False Free Offer</p>  <p>St. John's Bay® Long-Sleeve Lace-Up Sweater - Tall BUY 1 GET 1 FOR A PENNY \$48 2 or more \$24 each</p> <p>★★★★★ (2 reviews)</p> | <p>5/31/2016 False Coupon Code</p>  <p>St. John's Bay® Long-Sleeve Lace-Up Sweater - Tall \$48</p> <p>★★★★★ (2 reviews)</p> <p>CODE: BUYNDW4 25% OFF UNDER \$100</p> |
|--|--|---|



37. On the first day J.C. Penney offered this item for sale on its website, it was advertised with an "original" price of \$48 and a "sale" price of \$18.99, which J.C. Penney touted as a 60% discount.

38. However, the \$48 "original" price was a false reference price. As the screenshot and price history chart above shows, J.C. Penney only offered the product for \$48 online when combined with a "false free offer." Between May 12-15, 2016, J.C. Penney listed the item for sale at \$48, but with a "Buy 1 Get 1 For A Penny" offer. Later, on May 31, 2016, J.C. Penney listed the item for sale at \$48, but with an "Extra 25% Off" coupon.

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VIII. J.C. PENNEY'S ONGOING USE OF FALSE REFERENCE PRICING DIRECTLY CONTRADICTS ITS REPRESENTATIONS TO A FEDERAL COURT THAT IT HAD STOPPED SUCH ILLEGAL PRACTICES

39. J.C. Penney's false advertising and pricing practices directly contradict its representations to a federal district court in a private class action. In the Settlement Agreement in the matter styled *Spann v. J.C. Penney Corp., Inc.*, Case No. 8:12-cv-00215-FMO-KES (C.D. Cal.) filed on November 10, 2015, J.C. Penney specifically represented that it would not engage in illegal false reference pricing practices:

6.1.7 Injunctive Relief. As a direct result of this Litigation, J.C. Penney agrees that its advertising and pricing practices as of the date of this Settlement Agreement, and continuing forward, will not violate Federal or California law, including California's specific price-comparison advertising statutes. Specifically, J.C. Penney agrees that any former price to which J.C. Penney refers in its price comparison advertising will be the actual, bona fide price at which the item was openly and actively offered for sale, for a reasonably substantial period of time, in the recent, regular course of business, honestly and in good faith. As a further direct result of this Litigation, J.C. Penney shall implement a compliance program, which will consist of periodic (no less than once a year) monitoring, training and auditing to ensure compliance with California's price comparison laws.⁷

40. The district court preliminarily approved the proposed class settlement, relying in part on specific representations by J.C. Penney that it had stopped the illegal false advertising and pricing practices. According to the district court, a factor favoring preliminary approval was that the settlement "promotes consumer protection in that J.C. Penney has agreed that its advertising and pricing practices as of the date of the settlement agreement and continuing forward 'will not violate Federal or California law, including California's specific price-comparison advertising statutes.'"⁸

41. J.C. Penney subsequently reiterated, in another court filing, that it had stopped its illegal pricing and advertising practices. In fact, J.C. Penney insisted: "J.C. Penney... can represent that it has implemented a new price-comparison advertising policy in direct

⁷ See Settlement Agreement (Dkt. 246-3) at pp. 14-15, *Spann v. J.C. Penney Corp., Inc.*, No. 8:12-cv-00215-FMO-KES (C.D. Cal., Nov. 10, 2015).

⁸ See Order Preliminarily Approving Class Action Settlement (Dkt. 257) at p. 20 (Jan. 25, 2016).

WITNESS

1 response to this litigation. This policy has remained in effect at all times since it was enacted,
2 including since the date of the Settlement Agreement.”⁹

3 42. As to J.C. Penney’s representations that it had stopped using false price
4 comparisons, the “Settlement Agreement provides such promises from JCPenney, and JCPenney
5 alone[.]”¹⁰ However, in this private class action, J.C. Penney did not provide, and the parties
6 failed to negotiate, a means to monitor J.C. Penney’s compliance with the terms of the settlement.
7 As class counsel readily acknowledged: “Plaintiff and her counsel have no meaningful way to
8 monitor or enforce J.C. Penney’s pricing practices on a daily basis, let alone in
9 perpetuity...While Plaintiff doubts that J.C. Penney would knowingly return to the same pricing
10 strategies that led to this lawsuit, there is simply no way that she or her counsel could undertake
11 to monitor its pricing policies on a daily basis or otherwise ensure that J.C. Penney will comply
12 with the law going forward.”¹¹ In short, the class representative, class counsel, and the district
13 court relied on the purported truth of J.C. Penney’s representation that since November 2015, it
14 had stopped the illegal practices.

15 43. The district court ultimately granted final approval of the class settlement.
16 However, as alleged herein, J.C. Penney continues to engage in false advertising and pricing
17 practices, contrary to its representations made to the district court and in direct violation of
18 California law.

19 44. The People do not allege the falsity of J.C. Penney’s representations to the
20 district court in the private class action to establish an additional basis for liability, but to illustrate
21 why it is necessary for the People to pursue this civil law enforcement action.
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26 ⁹ See J.C. Penney Response to Objection to Class Settlement (Dkt. 267) at p. 2 (July 28, 2016).

27 ¹⁰ See Memorandum in Support of Motion for Final Approval of Class Action Settlement (Dkt. 268-1) at p. 19 (July 28, 2016).

28 ¹¹ *Id.* at pp. 20-21.

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IX. ENFORCEMENT AUTHORITY

(Business & Professions Code §§ 17200, *et seq.* and 17500, *et seq.*)

45. Business and Professions Code section 17200 defines "unfair competition" as "any unlawful, unfair or fraudulent business act or practice," and any act prohibited by Chapter 1 (commencing with Section 17500) of Part 3 of Division 7 of the Business and Professions Code.

46. Pursuant to Business and Professions Code sections 17206 and 17536, any person who engages, has engaged, or proposes to engage in unfair competition or false advertising shall be liable for a civil penalty not to exceed \$2,500 for each violation.

47. Pursuant to Business and Professions Code section 17206.1, in addition to any liability for a civil penalty pursuant to section 17206, any person who engages, has engaged, or proposes to engage in unfair competition against senior citizens or disabled persons may be liable for a civil penalty not to exceed \$2,500 for each violation.

48. Pursuant to Business and Professions Code sections 17203 and 17535, any person who engages, has engaged, or proposes to engage in unfair competition or false advertising may be enjoined in any court of competent jurisdiction, and the court may make such orders or judgments to prevent the use of any practice which constitutes unfair competition or false advertising, or as may be necessary to restore to any person in interest any money or property which may have been acquired by means of such unfair competition or false advertising.

49. Pursuant to Business and Professions Code sections 17205 and 17534.5, the remedies or penalties provided for violation of the Unfair Competition Law and False Advertising Law are cumulative to each other and to the remedies or penalties available under all other laws of the state.

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FIRST CAUSE OF ACTION

VIOLATION OF UNFAIR COMPETITION LAW ("UCL")

AGAINST ALL DEFENDANTS

(Business & Professions Code §§ 17200, *et seq.*)

50. The People incorporate by reference all preceding allegations as though fully set forth herein.

51. Defendants J.C. Penney and Does 1 through 10, and each of them, have violated (and continue to violate) the UCL by engaging in the following unlawful business acts and practices:

a. Advertising merchandise (sold by J.C. Penney) with a listed former price even though the purported former price was not the prevailing market price within the three-month period immediately preceding the publication of those advertisements, in violation of Business and Professions Code section 17501; and

b. Making false or misleading statements of fact concerning the reasons for, existence of, or amounts of price reductions as to the merchandise sold by J.C. Penney, in violation of Civil Code section 1770(a)(13).

52. Defendants J.C. Penney and Does 1 through 10, and each of them, have violated (and continue to violate) the UCL by engaging in the following unfair business acts and practices:

a. Engaging in false reference pricing in connection with the merchandise that J.C. Penney sold (and continues to sell) such that California consumers (who could not have reasonably avoided such predatory schemes) are substantially injured, something that serves no benefit to consumers or competition; and

b. Engaging in false reference pricing in connection with the merchandise that J.C. Penney sold (and continues to sell) such that Defendants gain an unfair advantage over lawfully-competing retailers.

53. Defendants J.C. Penney and Does 1 through 10, and each of them, have violated (and continue to violate) the UCL by engaging in the following fraudulent business acts

12/06/2016

1 and practices: using misrepresentations, deception, and/or concealment of material information in
2 connection with the reference prices of merchandise that J.C. Penney sold (and continues to sell),
3 such that California consumers and other members of the public in California are likely to be
4 deceived.

5 **SECOND CAUSE OF ACTION**
6 **VIOLATION OF FALSE ADVERTISING LAW ("FAL")**
7 **AGAINST ALL DEFENDANTS**

8 (Business & Professions Code §§ 17500, *et seq.*)

9 54. The People incorporate by reference all preceding allegations as though
10 fully set forth herein.

11 55. The FAL prohibits unfair, deceptive, untrue, and misleading advertising in
12 connection with the disposal of personal property (among other things), including, but not limited
13 to, false statements as to worth, value, and former price.

14 56. Defendants J.C. Penney and Does 1 through 10, and each of them, have
15 committed acts of untrue and misleading advertising by engaging in false price referencing as to
16 the merchandise that J.C. Penney sold (and continues to sell). In addition, these Defendants made
17 such untrue or misleading advertisements with the intent to dispose of said merchandise.

18 57. The false reference pricing that is the subject of this Complaint was (and
19 continues to be) likely to deceive members of the public.

20 **PRAYER FOR RELIEF**

21 Wherefore, the People pray that:

22 1. Pursuant to Business and Professions Code sections 17203, 17204, and
23 17535, in addition to the equitable powers of this Court, Defendant J.C. Penney and Does 1
24 through 10, inclusive, together with their officers, directors, employees, servants, agents,
25 representatives, contractors, partners, and associates, and all persons acting on behalf or in
26 concert with them, be enjoined from engaging in the unlawful, unfair, and fraudulent business
27 acts and practices, and false advertising, as described in this Complaint in violation of the UCL
28 and the FAL;

12/16/2016

01/17/2016 11:23

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2 Pursuant to Business and Professions Code sections 17206 and 17536, all

Defendants be assessed a civil penalty in the amount of \$2,500 for each violation of the UCL and

the FALA

3 Pursuant to Business and Professions Code section 17206, all Defendants

be assessed an additional civil penalty in the amount of \$2,500 for each violation of the UCL

against senior citizens or disabled persons;

4 The People recover the costs of this action; and

5 The People be granted such other and further relief as the Court may deem

to be just and proper.

Respectfully submitted,

Dated: December 7, 2016

OFFICE OF THE LOS ANGELES CITY ATTORNEY

[Signature]

BY:

MICHAEL N. FEUER

Attorneys for Plaintiff

THE PEOPLE OF THE STATE OF CALIFORNIA

1329479310

COMPLAINT FOR EQUITABLE RELIEF
AND CIVIL PENALTIES

17

ORIGINAL

By Fax

CM-010

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):
 Michael N. Feuer, City Attorney (SBN 111529)
 Office of the Los Angeles City Attorney
 200 North Main Street, 500 City Hall East
 Los Angeles, California 90012
 TELEPHONE NO: (213) 978-8097 FAX NO: (213) 978-8111
 ATTORNEY FOR (Name): The People of The State of California

FOR COURT USE ONLY
FILED
 Superior Court of California
 County of Los Angeles
 DEC 08 2016
 Sherri K. Carter, Executive Officer/Clerk
 Deputy

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES
 STREET ADDRESS: 111 North Hill Street
 MAILING ADDRESS: Same
 CITY AND ZIP CODE: Los Angeles, 90012
 BRANCH NAME: Stanley Mosk Courthouse

CASE NAME:
 The People of the State of California v. J.C. Penney Corporation, Inc.

CIVIL CASE COVER SHEET
 Unlimited (Amount demanded exceeds \$25,000) Limited (Amount demanded is \$25,000 or less)
 Complex Case Designation:
 Counter Joinder
 Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)

CASE NUMBER: **BC 048 036**
 JUDGE: _____
 DEPT: _____

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

| | | |
|---|--|---|
| Auto Tort <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) Other PIP/DWD (Personal Injury/Property Damage/Wrongful Death) Tort <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PIP/DWD (23) Non-PIP/DWD (Other) Tort <input checked="" type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PIP/DWD tort (35) Employment <input type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15) | Contract <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) Real Property <input type="checkbox"/> Eminent domain/inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (28) Unlawful Detainer <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (39) Judicial Review <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39) | Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) Enforcement of Judgment <input type="checkbox"/> Enforcement of judgment (20) Miscellaneous Civil Complaint <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) Miscellaneous Civil Petition <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43) |
|---|--|---|

2. This case: is is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:

| | |
|---|--|
| a. <input type="checkbox"/> Large number of separately represented parties | d. <input checked="" type="checkbox"/> Large number of witnesses |
| b. <input checked="" type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve | e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court |
| c. <input checked="" type="checkbox"/> Substantial amount of documentary evidence | f. <input type="checkbox"/> Substantial postjudgment judicial supervision |

3. Remedies sought (check all that apply): a. monetary b. nonmonetary, declaratory or injunctive relief c. punitive

4. Number of causes of action (specify): 2

5. This case: is is not a class action suit

6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015)

Date: December 7, 2016
 Michael J. Bostrom
 (TYPE OR PRINT NAME) _____ (SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code or Welfare and Institutions Code) (Cal. Rules of Court, rule 3.220). Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

ORIGINAL

By Fax

| | |
|--|-------------|
| SHORT TITLE People v. J.C. Penney Corporation, Inc. | CASE NUMBER |
|--|-------------|

BC 6 43 036

**CIVIL CASE COVER SHEET ADDENDUM AND
STATEMENT OF LOCATION
(CERTIFICATE OF GROUNDS FOR ASSIGNMENT TO COURTHOUSE LOCATION)**

This form is required pursuant to Local Rule 2.3 in all new civil case filings in the Los Angeles Superior Court.

Step 1: After completing the Civil Case Cover Sheet (Judicial Council form CM-010), find the exact case type in Column A that corresponds to the case type indicated in the Civil Case Cover Sheet.

Step 2: In Column B, check the box for the type of action that best describes the nature of the case.

Step 3: In Column C, circle the number which explains the reason for the court filing location you have chosen.

Applicable Reasons for Choosing Court Filing Location (Column C)

- | | |
|--|--|
| 1. Class actions must be filed in the Stanley Mosk Courthouse, Central District. | 7. Location where petitioner resides. |
| 2. Permissive filing in central district. | 8. Location wherein defendant/respondent functions wholly. |
| 3. Location where cause of action arose. | 9. Location where one or more of the parties reside. |
| 4. Mandatory personal injury filing in North District. | 10. Location of Labor Commissioner Office. |
| 5. Location where performance required of defendant resides. | 11. Mandatory filing location (Hub Cases - unlawful detainer, limited non-collection, limited collection, or personal injury). |
| 6. Location of property of permanently garaged vehicle. | |

Auto Tort
Asbestos
Product Liability
Medical Malpractice
Other Personal Injury/Property Damage/Wrongful Death/Tort

| A Civil Case Cover Sheet Category No. | B Type of Action (Check only one) | C Applicable Reasons - See Step 3 Above |
|---|---|--|
| Auto (22) | <input checked="" type="checkbox"/> A7100 Motor Vehicle - Personal Injury/Property Damage/Wrongful Death | 1, 4, 11 |
| Uninsured Motorist (46) | <input checked="" type="checkbox"/> A7110 Personal Injury/Property Damage/Wrongful Death - Uninsured Motorist | 1, 4, 11 |
| Asbestos (04) | <input type="checkbox"/> A6070 Asbestos Property Damage <input type="checkbox"/> A7221 Asbestos - Personal Injury/Wrongful Death | 1, 11 1, 11 |
| Product Liability (24) | <input checked="" type="checkbox"/> A7260 Product Liability (not asbestos or toxic/environmental) | 1, 4, 11 |
| Medical Malpractice (45) | <input type="checkbox"/> A7210 Medical Malpractice - Physicians & Surgeons <input type="checkbox"/> A7240 Other Professional Health Care Malpractice | 1, 8, 11 1, 4, 11 |
| Other Personal Injury/Property Damage/Wrongful Death (23) | <input type="checkbox"/> A7250 Premises Liability (e.g. slip and fall) <input type="checkbox"/> A7230 Intentional Bodily Injury/Property Damage/Wrongful Death (e.g. assault, vandalism, etc.) <input type="checkbox"/> A7270 Intentional Infliction of Emotional Distress <input type="checkbox"/> A7220 Other Personal Injury/Property Damage/Wrongful Death | 1, 4, 11 1, 4, 11 1, 4, 11 1, 4, 11 |

SHORT-TITLE: **People v. J.C. Penney Corporation, Inc.** CASE NUMBER:

Non-Personal Injury/Property Damage/Wrongful Death/Tort
 Employment
 Contract
 Real Property
 Unlawful Detainer

| A Civil Case Cover Sheet Category No. | B Type of Action (Check only one) | C: Applicable Reasons - See Step 3 Above |
|--|--|--|
| Business Tort (07) | <input checked="" type="checkbox"/> A6029 Other Commercial/Business Tort (not fraud/breach of contract) | 1, 2, 3 |
| Civil Rights (08) | <input type="checkbox"/> A6005 Civil Rights/Discrimination | 1, 2, 3 |
| Defamation (13) | <input type="checkbox"/> A6010 Defamation (slander/libel) | 1, 2, 3 |
| Fraud (16) | <input type="checkbox"/> A6013 Fraud (no contract) | 1, 2, 3 |
| Professional Negligence (25) | <input type="checkbox"/> A6017 Legal Malpractice | 1, 2, 3 |
| | <input type="checkbox"/> A6050 Other Professional Malpractice (not medical or legal) | 1, 2, 3 |
| Other (35) | <input type="checkbox"/> A6025 Other Non-Personal Injury/Property Damage tort | 1, 2, 3 |
| Wrongful Termination (36) | <input type="checkbox"/> A6037 Wrongful Termination | 1, 2, 3 |
| Other Employment (15) | <input type="checkbox"/> A6024 Other Employment Complaint Case | 1, 2, 3 |
| | <input type="checkbox"/> A6109 Labor Commissioner Appeals | 10 |
| Breach of Contract/Warranty (06) (not insurance) | <input type="checkbox"/> A6004 Breach of Rental/Lease Contract (not unlawful detainer or wrongful eviction) | 2, 5 |
| | <input type="checkbox"/> A6008 Contract/Warranty Breach - Seller Plaintiff (no fraud/negligence) | 2, 5 |
| | <input type="checkbox"/> A6019 Negligent Breach of Contract/Warranty (no fraud) | 1, 2, 5 |
| | <input type="checkbox"/> A6026 Other Breach of Contract/Warranty (not fraud or negligence) | 1, 2, 5 |
| Collections (09) | <input type="checkbox"/> A6002 Collections Case - Seller Plaintiff | 5, 6, 11 |
| | <input type="checkbox"/> A6012 Other Promissory Note/Collections Case | 5, 11 |
| | <input type="checkbox"/> A6034 Collections Case - Purchased Debt (Charged Off Consumer Debt Purchased on or after January 1, 2014) | 5, 6, 11 |
| Insurance Coverage (18) | <input type="checkbox"/> A6015 Insurance Coverage (not complex) | 1, 2, 5, 8 |
| Other Contract (37) | <input type="checkbox"/> A6009 Contractual Fraud | 1, 2, 3, 5 |
| | <input type="checkbox"/> A6031 Tortious Interference | 1, 2, 3, 5 |
| | <input type="checkbox"/> A6027 Other Contract Dispute (not breach/insurance/fraud/negligence) | 1, 2, 3, 8, 9 |
| Eminent Domain/Inverse Condemnation (14) | <input type="checkbox"/> A7900 Eminent Domain/Condemnation: Number of parcels _____ | 2, 6 |
| Wrongful Eviction (33) | <input type="checkbox"/> A6023 Wrongful Eviction Case | 2, 6 |
| Other Real Property (26) | <input type="checkbox"/> A6018 Mortgage Foreclosure | 2, 6 |
| | <input type="checkbox"/> A6032 Quiet Title | 2, 6 |
| | <input type="checkbox"/> A6060 Other Real Property (not eminent domain, landlord/tenant, foreclosure) | 2, 6 |
| Unlawful Detainer - Commercial (31) | <input type="checkbox"/> A6021 Unlawful Detainer - Commercial (not drugs or wrongful eviction) | 6, 11 |
| Unlawful Detainer - Residential (32) | <input type="checkbox"/> A6020 Unlawful Detainer - Residential (not drugs or wrongful eviction) | 6, 11 |
| Unlawful Detainer - Post-Foreclosure (34) | <input type="checkbox"/> A6020F Unlawful Detainer - Post-Foreclosure | 2, 6, 11 |
| Unlawful Detainer - Drugs (38) | <input type="checkbox"/> A6022 Unlawful Detainer - Drugs | 2, 6, 11 |

| SHORT TITLE: People v. J.C. Penney Corporation, Inc. | | CASE NUMBER: |
|---|--|---|
| A Civil Case Cover Sheet Category No. | B Type of Action (Check only one) | C Applicable Reasons - See Step 3 Above |
| Judicial Review | Asset Forfeiture (05) | <input type="checkbox"/> A6108 Asset Forfeiture Case; 2,3,6 |
| | Petition re Arbitration (11) | <input type="checkbox"/> A6115 Petition to Compel/Confirm/Vacate Arbitration; 2,5 |
| | Writ of Mandate (02) | <input type="checkbox"/> A6151 Writ - Administrative Mandamus; 2,8 <input type="checkbox"/> A6152 Writ - Mandamus on Limited Court Case Matter; 2 <input type="checkbox"/> A6153 Writ - Other Limited Court Case Review; 2 |
| | Other Judicial Review (39) | <input type="checkbox"/> A6150 Other Writ/Judicial Review; 2,8 |
| Provisionally Complex Litigation | Antitrust/Trade Regulation (03) | <input type="checkbox"/> A6003 Antitrust/Trade Regulation; 1,2,8 |
| | Construction Defect (10) | <input type="checkbox"/> A6007 Construction Defect; 1,2,3 |
| | Claims Involving Mass Tort (40) | <input type="checkbox"/> A6006 Claims Involving Mass Tort; 1,2,8 |
| | Securities Litigation (28) | <input type="checkbox"/> A6035 Securities Litigation Case; 1,2,8 |
| | Toxic Tort Environmental (30) | <input type="checkbox"/> A6036 Toxic Tort/Environmental; 1,2,3,8 |
| Enforcement of Judgment | Insurance Coverage Claims from Complex Case (41) | <input type="checkbox"/> A6014 Insurance Coverage/Subrogation (complex case only); 1,2,5,8 |
| | Enforcement of Judgment (20) | <input type="checkbox"/> A6141 Sister State Judgment; 2,5,11 <input type="checkbox"/> A6160 Abstract of Judgment; 2,6 <input type="checkbox"/> A6107 Confession of Judgment (non-domestic relations); 2,9 <input type="checkbox"/> A6140 Administrative Agency Award (not unpaid taxes); 2,8 <input type="checkbox"/> A6114 Petition/Certificate for Entry of Judgment on Unpaid Tax; 2,8 <input type="checkbox"/> A6112 Other Enforcement of Judgment Case; 2,8,9 |
| Miscellaneous Civil Complaints | RICO (27) | <input type="checkbox"/> A6033 Racketeering (RICO) Case; 1,2,8 |
| | Other Complaints (Not Specified Above) (42) | <input type="checkbox"/> A6030 Declaratory Relief Only; 1,2,8 <input type="checkbox"/> A6040 Injunctive Relief Only (not domestic harassment); 2,8 <input type="checkbox"/> A6011 Other Commercial Complaint Case (non-tort/non-complex); 1,2,8 <input type="checkbox"/> A6000 Other Civil Complaint (non-tort/non-complex); 1,2,8 |
| | Partnership/Corporation Governance (21) | <input type="checkbox"/> A6113 Partnership and Corporate Governance Case; 2,8 |
| Miscellaneous Civil Petitions | Other Petitions (Not Specified Above) (43) | <input type="checkbox"/> A6121 Civil Harassment; 2,3,9 <input type="checkbox"/> A6123 Workplace Harassment; 2,3,9 <input type="checkbox"/> A6124 Elder/Dependent Adult Abuse Case; 2,3,9 <input type="checkbox"/> A6190 Election Contest; 2 <input type="checkbox"/> A6110 Petition for Change of Name/Change of Gender; 2,7 <input type="checkbox"/> A6170 Petition for Relief from Late Claim Law; 2,3,8 <input type="checkbox"/> A6100 Other Civil Petition; 2,9 |

| | |
|---|--------------|
| SHORT TITLE: People v. J.C. Penney Corporation, Inc. | CASE NUMBER: |
|---|--------------|

Step 4: Statement of Reason and Address: Check the appropriate boxes for the numbers shown under Column C for the type of action that you have selected. Enter the address which is the basis for the filing location, including zip code. (No address required for class action cases).

| | | |
|--|---------------------|--|
| REASON: <input type="checkbox"/> 1. <input type="checkbox"/> 2. <input checked="" type="checkbox"/> 3. <input type="checkbox"/> 4. <input type="checkbox"/> 5. <input type="checkbox"/> 6. <input type="checkbox"/> 7. <input type="checkbox"/> 8. <input type="checkbox"/> 9. <input type="checkbox"/> 10. <input type="checkbox"/> 11. | | ADDRESS: 200 North Main Street 500 City Hall East |
| CITY: Los Angeles | STATE: CA | ZIP CODE: 90012 |

Step 5: Certification of Assignment: I certify that this case is properly filed in the Central District of the Superior Court of California, County of Los Angeles (Code Civ. Proc., §392 et seq., and Local Rule 2.3(a)(1)(E)).

Dated: December 7, 2016


 (SIGNATURE OF ATTORNEY/FILING PARTY)

PLEASE HAVE THE FOLLOWING ITEMS COMPLETED AND READY TO BE FILED IN ORDER TO PROPERLY COMMENCE YOUR NEW COURT CASE:

1. Original Complaint or Petition.
2. If filing a Complaint: a completed Summons form for issuance by the Clerk.
3. Civil Case Cover Sheet, Judicial Council form CM-010.
4. Civil Case Cover Sheet Addendum and Statement of Location form, LACIV-109, LASC Approved 03/04 (Rev. 02/16).
5. Payment in full of the filing fee, unless there is court order for waiver, partial or scheduled payments.
6. A signed order appointing the Guardian ad Litem, Judicial Council form CIV-010, if the plaintiff or petitioner is a minor under 18 years of age will be required by Court in order to issue a summons.
7. Additional copies of documents to be conformed by the Clerk. Copies of the cover sheet and this addendum must be served along with the summons and complaint, or other initiating pleading in the case.

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