

1 PACIFIC TRIAL ATTORNEYS
A Professional Corporation
2 Scott J. Ferrell, Bar No. 202091
sferrell@pacifictrialattorneys.com
3 Victoria C. Knowles, Esq., Bar No. 277231
vknowles@pacifictrialattorneys.com
4 4100 Newport Place, Ste. 800
Newport Beach, CA 92660
5 Tel: (949) 706-6464
Fax: (949) 706-6469

6 Attorneys for Plaintiff
7

ELECTRONICALLY FILED
Superior Court of California,
County of San Diego
02/17/2017 at 09:38:16 AM
Clerk of the Superior Court
By Patrick Gonzaga, Deputy Clerk

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **FOR THE COUNTY OF SAN DIEGO**

10
11 MATTHEW LOPEZ, individually and on behalf
of all others similarly situated,

12 Plaintiff,

13 v.

14 STUDY.COM, LLC, a Delaware limited liability
15 company; and DOES 1 – 10, inclusive,

16 Defendants.
17
18

Case No. 37-2017-00006162-CU-MT-CTL

CLASS ACTION COMPLAINT FOR:

1. VIOLATIONS OF CALIFORNIA'S
AUTOMATIC RENEWAL LAW
(BUSINESS AND PROFESSIONS CODE §§
17600-17604); AND
2. VIOLATIONS OF CALIFORNIA'S
UNFAIR COMPETITION LAW (BUSINESS
AND PROFESSIONS CODE §§ 17200-
17204)

1 Plaintiff Matthew Lopez (“Plaintiff”), on behalf of himself and all others similarly situated,
2 complains and alleges as follows:

3 INTRODUCTION & OVERVIEW OF CLAIMS

4 1. Plaintiff brings this class action on behalf of himself and a class of others similarly
5 situated consisting of all persons who, within the applicable statute of limitations period, purchased
6 subscriptions for products (such as online academic courses and related products) from Study.com,
7 LLC. (“Defendant”). The class of others similarly situated to Plaintiff is referred to herein as “Class
8 Members.” The claims for damages, restitution, injunctive and/or other equitable relief, and
9 reasonable attorneys’ fees and costs arise under California Business and Professions Code (hereinafter
10 “Cal. Bus. & Prof. Code”) §§ 17602, 17603, 17604) and 17200, et seq., and California Code of Civil
11 Procedure § 1021.5. Plaintiff and Class Members are consumers for purposes of Cal. Bus. & Prof.
12 Code §§ 17600-17606.

13 2. During the Class Period, Defendant made automatic renewal or continuous service
14 offers to consumers in California and (a) at the time of making the automatic renewal or continuous
15 service offers, failed to present the automatic renewal offer terms or continuous service offer terms, in
16 a clear and conspicuous manner and in visual proximity to the request for consent to the offer before
17 the subscription or purchasing agreement was fulfilled in violation of Cal. Bus. & Prof. Code §
18 17602(a)(1); (b) charged Plaintiff’s and Class Members’ credit or debit cards, or third-party account
19 (hereinafter “Payment Method”) without first obtaining Plaintiff’s and Class Members’ affirmative
20 consent to the agreement containing the automatic renewal offer terms or continuous service offer
21 terms in violation of Cal. Bus. & Prof. Code § 17602(a)(2); and (c) failed to provide an
22 acknowledgment that includes the automatic renewal or continuous service offer terms, cancellation
23 policy, and information regarding how to cancel in a manner that is capable of being retained by the
24 consumer in violation of Cal. Bus. & Prof. Code §§ 17602(a)(3) and 17602(b). As a result, all goods,
25 wares, merchandise, or products sent to Plaintiff and Class Members under the automatic renewal of
26 continuous service agreements are deemed to be an unconditional gift pursuant to Cal. Bus. & Prof.
27 Code § 17603.

28 ///

1 3. As a result of the above, Plaintiff, on behalf of himself and Class Members, seeks
2 damages, restitution, declaratory relief, injunctive relief and reasonable attorneys' fees and costs
3 pursuant to Cal. Bus. & Prof. Code, §§ 17603, 17203, and 17204, and Code of Civil Procedure §
4 1021.5.

5 **JURISDICTION AND VENUE**

6 4. This Court has jurisdiction over all causes of action asserted herein.

7 5. Venue is proper in this Court because Defendant knowingly engages in activities
8 directed at consumers in this County and conducted wrongful conduct alleged herein against residents
9 of this County.

10 6. Defendant and other out-of-state participants can be brought before this Court pursuant
11 to California's "long-arm" jurisdictional statute.

12 **PARTIES**

13 7. Plaintiff purchased a subscription plan from Defendant in California during the Class
14 Period. Plaintiff and Class Members are consumers as defined under Cal. Bus. & Prof. Code §
15 17601(d).

16 8. Plaintiff is informed and believes, and upon such information and belief alleges, that
17 Defendant Study.com, LLC is a Delaware limited liability company with its principal place of
18 business located at 100 View Street, Suite 202, Mountain View, California 94041-1374. Defendant
19 operates in California and has done business in California at all times during the Class Period. Also
20 during the Class Period, Defendant made, and continues to make, automatic renewal or continuous
21 service offers to consumers in California. Defendant operates a website which markets online
22 academic courses and related products.

23 9. The true names and capacities of the Defendants sued herein as DOES 1 through 10,
24 inclusive, are currently unknown to Plaintiff, who therefore sues such Defendants by fictitious names.
25 Each of the Defendants designated herein as a DOE is legally responsible for the unlawful acts alleged
26 herein. Plaintiff will seek leave of Court to amend this Complaint to reflect the true names and
27 capacities of the DOE Defendants when such identities become known.

28 ///

1 agreement will continue until the consumer cancels. (2) The description of the cancelation policy that
2 applies to the offer. (3) The recurring charges that will be charged to the consumer’s credit or debit
3 card or payment account with a third party as part of the automatic renewal plan or arrangement, and
4 that the amount of the charge may change, if that is the case, and the amount to which the charge will
5 change, if known. (4) The length of the automatic renewal term or that the service is continuous,
6 unless the length of the term is chosen by the consumer. (5) The minimum purchase obligation, if any.”

7 15. Pursuant to Cal. Bus. & Prof. Code § 17601(c), “clear and conspicuous” or “clearly and
8 conspicuously” means “in larger type than the surrounding text, or in contrasting type, font, or color
9 to the surrounding text of the same size, or set off from the surrounding text of the same size by
10 symbol ls or other marks, in a manner that clearly calls attention to the language.”

11 16. Section 17602(b) provides: “A business making automatic renewal or continuous
12 service offers shall provide a toll-free telephone number, electronic mail address, a postal address only
13 when the seller directly bills the consumer, or another cost-effective, timely, and easy-to-use
14 mechanism for cancellation that shall be described in the acknowledgment specified in paragraph (3)
15 of subdivision (a).”

16 17. Section 17603 of Cal. Bus. & Prof. Code provides: “In any case in which a business
17 sends any goods, wares, merchandise, or products to a consumer, under a continuous service
18 agreement or automatic renewal of a purchase, without first obtaining the consumer’s affirmative
19 consent as described in Section 17602, the goods, wares, merchandise, or products shall for all
20 purposes be deemed an unconditional gift to the consumer, who may use or dispose of the same in any
21 manner he or she sees fit without any obligation whatsoever on the consumer’s part to the business,
22 including, but not limited to, bearing the cost of, or responsibility for, shipping any goods, wares,
23 merchandise, or products to the business.”

24 **Defendant’s Business**

25 18. Defendant offers via its website, study.com, various subscriptions for delivery of online
26 academic courses and related products, including a “Basic” service for \$39.99 per month.
27 Defendant’s product and services plan constitutes an automatic renewal and/or continuous service plan
28 or arrangement for the purposes of Cal. Bus. & Prof. Code § 17601.

Plans & Pricing

Select your plan & begin your 5-day free trial. No obligation, cancel anytime.

Basic Edition	Most Popular Premium Edition	College Accelerator
<ul style="list-style-type: none">Unlimited access to all video lessonsLesson TranscriptsTech support	<i>Everything in Basic Edition, plus:</i> <ul style="list-style-type: none">Practice quizzes & testsTools for tracking progressPersonalized coachingAccess to instructorsCertificates of CompletionCreate Custom Courses	<i>Everything in Premium Edition, plus:</i> <ul style="list-style-type: none">Earn college creditTake two exams per monthFinish official exams remotely
\$39.99 /month	\$59.99 /month	\$199.99 /month
Basic Edition	Premium Edition	College Accelerator
Start Free Trial	Start Free Trial	Start Free Trial

Are you a **teacher**? If so, [click here](#) to find out about our *Teacher's Edition*.

Defendant's Terms of Service Agreement

19. During the Class Period, Defendant's webpage, found at study.com, contained a section entitled "Terms of Service Agreement". **This is a lengthy document in which information concerning the recurring nature of Defendant's subscription programs or the manner in which the subscriptions may be cancelled are not set forth in clear and conspicuous language, as required by the applicable statutes and as set forth below.**

Defendant's Terms of Service Agreement Fails to Provide Clear and Conspicuous Disclosures

As Required by Law.

20. Within the Terms of Service Agreement, Defendant failed to state in clear and conspicuous language (*i.e.*, in larger type than the surrounding text, or in contrasting type, font, or color to the surrounding text of the same size, or set off from the surrounding text of the same size by symbols of other marks, in a manner that clearly calls attention to the language) that:

- i) The subscription or purchasing agreement will continue until the consumer cancels (there is language in capitals stating that the subscription will continue after the free trial period unless canceled, but language concerning recurring charges thereafter is not so prominently displayed);
- ii) Described the cancellation policy that applies to the offer;
- iii) Recurring charges that will be charged to the consumer’s Payment Method account with a third party as part of the automatic renewal plan or arrangement, and that the amount of the charge may change, if that is the case, and the amount to which the charge will change, if known; and
- iv) The length of the automatic renewal term or that the service is continuous unless the length of tile term is chosen by the consumer.

Defendant Failed to Present the Automatic Renewal Offer Terms or Continuous Service Offer Terms in a Clear and Conspicuous Manner Before the Subscription or Purchasing Agreement was Fulfilled and in Visual Proximity to the Request for Consent to the Offer in Violation of Cal. Bus. & Prof. Code § 17602(a)(1), (2).

21. During the Class Period, Defendant made, and continues to make, an automatic renewal offer for its subscriptions plans to Consumers in the United States, including Plaintiff and Class Members. On the page where the subscriber makes the purchase, there is a statement that a subscriber may “cancel anytime,” but no actual description of that policy on the website page. Accordingly, the website did not, and does not, contain automatic renewal offer terms or continuous service offer terms as defined by Cal. Bus. & Prof. Code § 17601(b).

///

///

///

///

///

///

///

Create your account

Start your FREE trial. No obligation; cancel anytime.

Preferred Payment Method

Credit Card 

Card Number      Have a Coupon Code?

Credit Card Number

Please fill out this field.

Expiration

Month Year CVC

Zip Code

Zip Code

By creating an account, you agree to Study.com's [Terms of Use](#) and [Privacy Policy](#).

[Create your account](#)

[back](#)

Your selected plan:

Basic Edition

5-day free trial **\$0.00** due today

Starting Sep 11, 2016 \$39.99 /mo

 Secure Server
[tell me more](#)

 Norton
SECURED
powered by Symantec

22. As a result, prior to charging Plaintiff and Class Members, Defendant failed and continues to fail to obtain Plaintiff's and Class Members' affirmative consent to the automatic renewal offer terms or continuous service offer terms as required by Cal. Bus. & Prof. Code § 17602(a)(1), (2).

23. Because of Defendant's failure to gather affirmative consent to the automatic renewal terms, all goods, wares, merchandise, or products, sent to Plaintiff and Class Members under the automatic renewal or continuous service agreement are deemed to be an unconditional gift pursuant to Cal. Bus. & Prof. Code § 17603, and Plaintiff and Class Members may use or dispose of the same in any manner they see fit without any obligation whatsoever on their part to Defendant, including, but not limited to, bearing the cost of, or responsibility for, shipping any goods, wares, merchandise or products.

Defendant Failed to Provide an Acknowledgment as Required by Cal. Bus. & Prof. Code §§ 17602(a)(3) and 17602(b)

24. Furthermore, and in addition to the above, after Plaintiff and Class Members subscribed

1 to one of Defendant's subscription plans, Defendant sent to Plaintiff and Class Members documents
2 an email follow-up to their purchase, entitled "Study.com Membership Details," but has failed, and
3 continues to fail, to provide an acknowledgement that includes the automatic renewal or continuous
4 service offer terms, cancellation policy, and information on how to cancel in a manner that is capable
5 of being retained by Plaintiff and Class Members in violation of Cal. Bus. & Prof. Code §§
6 17602(a)(3) and 17602(b). There is language stating that if a subscriber did not want to continue,
7 he/she should cancel prior to being charged, but no description of the method of cancellation is in the
8 acknowledgment itself.

9 From: **Study.com** <your.feedback@study.com>
10 Date:
11 Subject: Study.com Membership Details
12 To:



13
14
15 Thank you for signing up for Study.com. Your selected plan details are below:

16 Basic Edition

17
18 **5-day free trial**

\$0.00 due today

19 Starting September 21, 2016

\$39.99 per month

20 Your free trial ends on September 21, 2016 at 11:59 p.m. PST. At that time, your account
21 will be charged. Please note that this is a monthly recurring charge. We hope you love your
22 membership, but if you decide Study.com is not for you, please cancel before your trial
23 expires to avoid any charges.

24 Copyright © 2016 Study.com, All rights reserved

25
26 ///

27 ///

28 ///

1 **CLASS ACTION ALLEGATIONS**

2 25. Plaintiff brings this class action for damages and other monetary and injunctive relief
3 on behalf of the following class:

4 **“All persons within California that, within the applicable statute of limitations**
5 **period, purchased any product or service in response to an offer constituting an**
6 **“Automatic Renewal” as defined by § 17601(a) from Study.com, LLC, its**
7 **predecessors, or its affiliates.”**

8 26. Excluded from the Class are governmental entities, Defendant, any entity in which
9 Defendant has a controlling interest, and Defendant’s officers, directors, affiliates, legal
10 representatives, employees, co-conspirators, successors, subsidiaries, and assigns, and individuals
11 bound by any prior settlement. Also, excluded from the Class is any judge, justice, or judicial officer
12 presiding over this matter, and any callers who did receive a warning that their calls were recorded.

13 27. The proposed Class is so numerous that individual joinder of all its members is
14 impracticable. Due to the nature of the trade and commerce involved, however, Plaintiff believes that
15 the total number of Class members is at least in the tens of thousands and members of the Class are
16 numerous and geographically dispersed across the United States. While the exact number and
17 identities of the Class members are unknown at this time, such information can be ascertained through
18 appropriate investigation and discovery. The disposition of the claims of the Class members in a
19 single class action will provide substantial benefits to all parties and to the Court.

20 28. There is a well-defined community of interest in the questions of law and fact involved
21 affecting the plaintiff class and these common questions predominate over any questions that may
22 affect individual Class members. Common questions of fact and law include, but are not limited to,
23 the following:

- 24 i. Whether Defendant failed to present the automatic renewal offer terms, or
25 continuous service offer terms, in a clear and conspicuous manner before the
26 subscription or purchasing agreement was fulfilled and in visual proximity to
27 the request for consent to the offer in violation of Cal. Bus. & Prof. Code §
28 17602(a)(1);

- 1 ii. Whether Defendant charged Plaintiff's and Class Members' Payment Method
- 2 for an automatic renewal or continuous service without first obtaining the
- 3 Plaintiff's and Class Members' affirmative consent to the automatic renewal
- 4 offer terms or continuous service offer terms in violation of Cal. Bus. & Prof.
- 5 Code § 17602(a)(2);
- 6 iii. Whether Defendant failed to provide an acknowledgement that included the
- 7 automatic renewal or continuous service offer terms, cancellation policy, and
- 8 information on how to cancel in a manner that is capable of being retained by
- 9 Plaintiff and Class Members, in violation of Cal. Bus. & Prof. Code §
- 10 17602(a)(3);
- 11 iv. Whether Defendant failed to provide an acknowledgment that describes a cost-
- 12 effective, timely, and easy-to-use mechanism for cancellation in violation of
- 13 Cal. Bus. & Prof. Code § 17602(b);
- 14 v. Whether Plaintiff and the Class Members are entitled to restitution of money
- 15 paid in circumstances where the goods and services provided by Defendant are
- 16 deemed an unconditional gift in accordance with Cal. Bus. & Prof. Code §
- 17 17603;
- 18 vi. Whether Plaintiff and Class Members are entitled to restitution in accordance
- 19 with Cal. Bus. & Prof. Code §§ 17200, 17203;
- 20 vii. Whether Plaintiff and Class Members are entitled to injunctive relief under Cal.
- 21 Bus. & Prof. Code § 17203;
- 22 viii. Whether Plaintiff and Class Members are entitled to attorneys' fees and costs
- 23 under California Code of Civil Procedure § 1021.5; and
- 24 ix. The proper formula(s) for calculating the restitution owed to Class Members.

25 29. Plaintiff's claims are typical of the claims of the members of the Class. Plaintiff and all
26 members of the Class have been subjected to Defendant's common course of unlawful conduct as
27 complained of herein and are entitled to the same statutory damages based on Defendant's wrongful
28 conduct as alleged herein.

1 30. Plaintiff will fairly and adequately represent and protect the interests of the Class.
2 Plaintiff has retained counsel with substantial experience in handling complex class action litigation.
3 Plaintiff and his counsel are committed to vigorously prosecuting this action on behalf of the Class and
4 have the financial resources to do so.

5 31. A class action is superior to other available methods for the fair and efficient
6 adjudication of the present controversy. Individual joinder of all members of the class is impracticable.
7 Even if individual class members had the resources to pursue individual litigation, it would be unduly
8 burdensome to the courts in which the individual litigation would proceed.

9 32. The conduct of this action as a class action conserves the resources of the parties and of
10 the judicial system and protects the rights of the class members. Furthermore, for many, if not most, a
11 class action is the only feasible mechanism that allows an opportunity for legal redress and justice.

12 **FIRST CAUSE OF ACTION**

13 **FAILURE TO PRESENT AUTOMATIC RENEWAL OFFER TERMS OR CONTINUOUS**
14 **SERVICE OFFER TERMS CLEARLY AND CONSPICUOUSLY AND IN VISUAL,**
15 **PROXIMITY TO THE REQUEST FOR CONSENT OFFER (CAL. BUS. & PROF. CODE§**
16 **17602(a)(1))**

17 **(By Plaintiff, on his own behalf and on behalf of the Class, against All Defendants)**

18 33. The foregoing paragraphs are alleged herein and are incorporated herein by reference.

19 34. Cal. Bus. Prof. Code§ 17602(a)(1) provides:

20 (a) It shall be unlawful for any business making an automatic renewal or continuous
21 service offer to a consumer in this state to do any of the following:

22 (1) Fail to present the automatic renewal offer terms or continuous service offer
23 terms in a clear and conspicuous manner before the subscription or purchasing
24 agreement is fulfilled and in visual proximity, or in the case of an offer conveyed
25 by voice, in temporal proximity, to the request for consent to the offer.

26 35. Plaintiff and Class Members purchased Defendant's online academic courses and
27 related products for personal, family or household purposes. Defendant failed to present the automatic
28 renewal offer terms, or continuous service offer terms, in a clear and conspicuous manner and in
visual proximity the request for consent to the offer before the subscription or purchasing agreement
was fulfilled.

1 36. As a result of Defendant's violations of Cal. Bus. & Prof. Code § §17602(a)(1),
2 Defendant is subject under Cal. Bus. & Prof. Code § 17604 to all civil remedies that apply to a
3 violation of Article 9, of Chapter 1, of Part 3, of Division 7 of the Cal. Bus. & Prof. Code.

4 37. Plaintiff, on behalf of himself and Class Members, requests relief as described below.

5 **SECOND CAUSE OF ACTION**

6 **FAILURE TO OBTAIN CONSUMER'S AFFIRMATIVE CONSENT**

7 **BEFORE THE SUBSCRIPTION IS FULFILLED**

8 **(CAL BUS. & PROF. CODE §§ 17602(a)(2) and 17603)**

9 **(By Plaintiff, on his own behalf and on behalf of the Class, against All Defendants)**

10 38. The foregoing paragraphs are alleged herein and are incorporated herein by reference.

11 39. Cal. Bus. & Prof. Code § 17602(a)(2) provides:

12 (a) It shall be unlawful for any business making an automatic renewal or continuous
13 service offer to a consumer in this state to do any of the following:

14 (2) Charge the consumer's credit or debit card or the consumer's account with a
15 third party for an automatic renewal or continuous service without first
obtaining the consumer, s affirmative consent to the agreement containing the
automatic renewal offer terms or continuous service offer terms.

16 40. Plaintiff and Class Members purchased Defendant's online academic courses and
17 related products for personal, family or household purposes. Defendant charged, and continues to
18 charge Plaintiff's and Class Members' Payment Method for an automatic renewal or continuous
19 service without first obtaining Plaintiff's and Class Members affirmative consent to the Terms of
20 Service Agreement containing the automatic renewal offer terms or continuous service offer terms.

21 41. As a result of Defendant's violations of Cal. Bus. & Prof. Code § 17602(a)(2),
22 Defendant is liable to provide restitution to Plaintiff and Class Members under Cal. Bus. & Prof. Code
23 § 17603.

24 42. Plaintiff, on behalf of himself and Class Members, requests relief as described below.

25 ///

26 ///

27 ///

28 ///

1 **THIRD CAUSE OF ACTION**

2 **FAILURE TO PROVIDE ACKNOWLEDGMENT WITH**
3 **AUTOMATIC RENEWAL TERMS AND INFORMATION REGARDING**
4 **CANCELLATION POLICY**

5 **(CAL. BUS. & PROF. CODE §§ 17602(a)(3), 17602(b))**

6 **(By Plaintiff, on his own behalf and on behalf of the Class, against All Defendants)**

7 43. The foregoing paragraphs are alleged herein and are incorporated herein by reference.

8 44. Cal. Bus. & Prof. Code§ 17602(a)(3) provides:

9 (a) It shall be unlawful for any business making an automatic renewal or continuous
10 service offer to a consumer in this state to do any of the following:

11 (3) Fail to provide an acknowledgment that includes the automatic renewal
12 or continuous service offer terms, cancellation policy, and information
13 regarding how to cancel in a manner that is capable of being retained by
the consumer. If the offer includes a free trial, the business shall also
disclose in the acknowledgment how to cancel and allow the consumer to
cancel before the consumer pays for the goods or services.

14 45. Cal. Bus. & Prof. Code§ 17602(b) provides:

15 “A business making automatic renewal or continuous service offers shall
16 provide a toll-free telephone number, electronic mail address, a postal
17 address only when the seller directly bills the consumer, or another cost-
effective, timely, and easy-to-use mechanism for cancellation that shall be
described in the acknowledgment specified in paragraph (3) of subdivision
18 (a).”

19 46. Plaintiff and Class Members purchased Defendant’s online academic courses and
20 related products for personal, family or household purposes. Defendant failed to provide an
21 acknowledgement that includes the automatic renewal or continuous service offer terms, cancellation
22 policy, and information on how to cancel in a manner that is capable of being retained by Plaintiff and
23 Class Members.

24 47. As a result of Defendant’s violations of Cal. Bus. & Prof. Code §§ 17602(a)(3) and
25 17602(b), Defendant is subject to all civil remedies under Cal. Bus. & Prof. Code § 17604 that apply
26 to a violation of Article 9, of Chapter 1 of Part 3, of Division 7 of the Cal. Bus. & Prof. Code.

27 48. Plaintiff, on behalf of himself and Class Members, requests relief as described below.

28 ///

1 **FOURTH CAUSE OF ACTION**

2 **VIOLATION OF THE UNFAIR COMPETITION LAW**

3 **(CAL. BUS. & PROF. CODE§ 17200 *et. seq.*)**

4 **(By Plaintiff, on his own behalf and on behalf of the Class, against All Defendants)**

5 49. The foregoing paragraphs are alleged herein and are incorporated herein by reference.

6 50. Cal. Bus. & Prof. Code § 17200, *et seq.* (the “UCL”) prohibits unfair competition in the
7 form of any unlawful or unfair business act or practice. Cal. Bus. & Prof. Code § 17204 allows “a
8 person who has suffered injury in fact and has lost money or property” to prosecute a civil action for
9 violation of the UCL. Such a person may bring such an action on behalf of himself or herself and
10 others similarly situated who are affected by the unlawful and/or unfair business practice or act.

11 51. Since December 1, 2010, and continuing to the present, Defendant has committed
12 unlawful and/or unfair business acts or practices as defined by the UCL, by violating Cal. Bus. & Prof.
13 Code §§ 17602(a)(1), 17602(a)(2), 17602(a)(3) and 17602(b). The public policy which is a predicate
14 to a UCL action under the unfair prong of the UCL is tethered to a specific statutory provision. *See*
15 Cal. Bus. & Prof. Code §§ 17600, 17602.

16 52 Plaintiff has standing to pursue this claim because he suffered injury in fact and has lost
17 money or property as a result of Defendant’s actions as set forth herein. Plaintiff purchased
18 Defendant’s online academic courses and related products for personal, family, or household
19 purposes.

20 53. As a direct and proximate result of Defendant’s unlawful and/or unfair business acts or
21 practices described herein, Defendant has received, and continues to hold, unlawfully obtained
22 property and money belonging to Plaintiff and Class Members in the form of payments made for
23 subscription agreements by Plaintiff and Class Members. Defendant has profited from its unlawful
24 and/or unfair business acts or practices in the amount of those business expenses and interest accrued
25 thereon.

26 54. Plaintiff and similarly-situated Class Members are entitled to restitution pursuant to
27 Cal. Bus. & Prof. Code § 17203 for all monies paid by Class Members under the subscription
28 agreements from December 1, 2010, to the date of such restitution at rates specified by law.

1 Defendant should be required to disgorge all the profits and gains it has reaped and restore such profits
2 and gains to Plaintiff and Class Members, from whom they were unlawfully taken.

3 55. Plaintiff and similarly situated Class Members are entitled to enforce all applicable
4 penalty provisions pursuant to Cal. Bus. & Prof. Code § 17202, and to obtain injunctive relief
5 pursuant to Cal. Bus. & Prof. Code § 17203.

6 56. Plaintiff has assumed the responsibility of enforcement of the laws and public policies
7 specified herein by suing on behalf of himself and other similarly-situated Class Members. Plaintiff's
8 success in this action will enforce important rights affecting the public interest. Plaintiff will incur a
9 financial burden in pursuing this action in the public interest. An award of reasonable attorneys' fees
10 to Plaintiff is thus appropriate pursuant to California Code of Civil Procedure § 1021.5.

11 57. Plaintiff, on behalf of himself and Class Members, request relief as described below.

12 **PRAYER FOR RELIEF**

13 WHEREFORE, Plaintiff requests the following relief:

14 A. That the Court determine that this action may be maintained as a class action, and
15 define the Class as requested herein;

16 B. That the Court find and declare that Defendant has violated Cal. Bus. & Prof. Code §
17 17602(a)(1) by failing to present the automatic renewal offer terms, or continuous service offer terms,
18 in a clear and conspicuous manner and the visual proximity to the request for consent to the offer
19 before the subscription or purchasing agreement was fulfilled;

20 C. That the Court find and declare that Defendant has violated Cal. Bus. & Prof. Code §
21 17602(a)(2) by charging Plaintiff's and Class Members' Payment Method without first obtaining their
22 affirmative consent to the automatic renewal offer terms or continuous service terms;

23 D. That the Court find and declare that Defendant has violated Cal. Bus. & Prof. Code §
24 17602(a)(3) by failing to provide an acknowledgement that includes the automatic renewal or
25 continuous service offer terms, cancellation policy and information on how to cancel in a manner that
26 is capable of being retained by Plaintiff and Class Members;

27 E. That the Court find and declare that Defendant has violated Cal. Bus. & Prof. Code §
28 17602(b) by failing to provide an acknowledgment that describes a toll-free telephone number,

1 electronic mail address, a postal address only when the seller directly bills the consumer, or another
2 cost-effective, timely, and easy-to-use mechanism for cancellation;

3 F. That the Court find and declare that Defendant has violated the UCL and committed
4 unfair and unlawful business practices by violating Cal. Bus. & Prof. Code § 17602;

5 G. That the Court award to Plaintiff and Class Members damages and full restitution due
6 to Defendant's UCL violations, pursuant to Cal. Bus. & Prof. Code §§ 17200-17205 in the amount of
7 their subscription agreement payments;


8 H. That the Court find that Plaintiff and Class Members are entitled to injunctive relief
9 pursuant to Cal. Bus. & Prof. Code § 17203;

10 I. That Plaintiff and the Class be awarded reasonable attorneys' fees and costs pursuant to
11 California Code of Civil Procedure § 1021.5, and/or other applicable law; and

12 J. That the Court award such other and further relief as this Court may deem appropriate.

13
14 Dated: February 17, 2017

PACIFIC TRIAL ATTORNEYS, APC

15 By: 
16 Scott. J. Ferrell
17 Attorneys for Plaintiff