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10  
11 UNITED STATES DISTRICT COURT  
12 SOUTHERN DISTRICT OF CALIFORNIA  
13

14 CHRISITINA CHASE, on behalf of  
15 herself and all others similarly situated,  
16 Plaintiff,

17 v.

18 HOBBY LOBBY STORES, INC., an  
19 Oklahoma corporation, and DOES 1  
20 through 50, inclusive,  
21 Defendant.

Case No.: '17CV0881 GPC BLM

**CLASS ACTION COMPLAINT**

1. **Violation of California's Unfair Competition Laws ("UCL"); California Business & Professions Code Sections 17200, et seq.;**
2. **Violation of California's False Advertising Laws ("FAL"); California Business & Professions Code Sections 17500, et seq.;**
3. **Violations of California Consumer Legal Remedies Act ("CLRA"); California Civil Code Sections 1750, et seq.**

**[DEMAND FOR JURY TRIAL]**

1 Plaintiff CHRISTINA CHASE brings this action on behalf of herself and all others  
2 similarly situated against Defendant HOBBY LOBBY STORES, INC. (“Hobby Lobby”),  
3 and states:

4 **I. NATURE OF ACTION**

5 1. “If everyone is getting a deal, is anyone really getting a deal?”<sup>1</sup> This class  
6 action targets Hobby Lobby’s unlawful, unfair, and fraudulent business practice of  
7 advertising fictitious prices and corresponding phantom discounts on their Hobby Lobby  
8 branded and/or trademarked lines of merchandise. This practice of false reference pricing  
9 occurs where a retailer fabricates a fake regular, original, and/or former reference price,  
10 and then offers an item for sale at a deep “discounted” price. The result is a sham price  
11 disparity that misleads consumers into believing they are receiving a good deal and induces  
12 them into making a purchase. Retailers drastically benefit from employing a false  
13 reference-pricing scheme and experience increased sales.

14 2. The California legislature prohibits this misleading practice. The law  
15 recognizes the reality that consumers often purchase merchandise marketed as being “on  
16 sale” purely because the proffered discount seemed too good to pass up. Accordingly,  
17 retailers have an incentive to lie to customers and advertise false sales. The resulting harm  
18 is tangible—the bargain hunter’s expectations about the product she purchased is that it  
19 has a higher perceived value and she may not have purchased the product but for the false  
20 savings.

21 3. Hobby Lobby utilizes a false and misleading reference price in the marketing  
22 and selling of Hobby Lobby branded and/or trademarked merchandise at its retail stores.  
23 Hobby Lobby advertises its merchandise for sale by attaching a price tag on the item that  
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26 <sup>1</sup> David Streitfeld, *It’s Discounted, but is it a Deal? How List Prices Lost Their Meaning*,  
27 New York Times, [https://www.nytimes.com/2016/03/06/technology/its-discounted-but-](https://www.nytimes.com/2016/03/06/technology/its-discounted-but-is-it-a-deal-how-list-prices-lost-their-meaning.html)  
28 [is-it-a-deal-how-list-prices-lost-their-meaning.html](https://www.nytimes.com/2016/03/06/technology/its-discounted-but-is-it-a-deal-how-list-prices-lost-their-meaning.html), (March 6, 2016), last accessed April  
28, 2017.

1 sets forth a fictitious “Marked” price. *See e.g.* Exhibit A. The “Marked” price is then  
2 substantially discounted from a “\_\_% OFF” price depicted on corresponding price placards  
3 adjacent to the respective items. *See e.g.* Exhibit B. The “\_\_% OFF” price represents the  
4 percentage of the savings the customer is purportedly saving off the “Marked” reference  
5 price by purchasing the product.

6 4. However, the “Marked” price is a total fiction. The only stores in which the  
7 Hobby Lobby branded and/or trademarked merchandise is actually sold is at the Hobby  
8 Lobby retail stores. Thus, the only market price for the Hobby Lobby branded and/or  
9 trademarked merchandise is the price at which the merchandise is sold in the Hobby Lobby  
10 retail stores, since Hobby Lobby is the only “market” for Hobby Lobby branded and/or  
11 trademarked merchandise.

12 5. The Hobby Lobby branded and/or trademarked merchandise is never offered  
13 for sale, nor actually sold, at the represented “Marked” price. Thus, the “Marked” price is  
14 false and is used exclusively to induce consumers into believing that the merchandise was  
15 once sold at the “Marked” price and from which the false and discount and corresponding  
16 “\_\_% OFF” price is derived. Hobby Lobby’s deceptive pricing scheme has the effect of  
17 tricking consumers into believing they are receiving a significant deal by purchasing  
18 merchandise at a steep discount, when in reality, consumers are paying for merchandise at  
19 its regular or original retail price.

20 6. The advertised discounts are fictitious because the regular or original  
21 reference price, or “Marked” price, do not represent a *bona fide* price at which Hobby  
22 Lobby previously sold a substantial quantity of the merchandise for a reasonable period of  
23 time as required by the Federal Trade Commission (“FTC”). In addition, the represented  
24 “Marked” price was not the prevailing market retail price within the three months  
25 immediately preceding the publication of the advertised former “Market” price, as required  
26 by California law.

27 7. Through its false and misleading marketing, advertising, and pricing scheme,  
28 Hobby Lobby violated and continues to violate, California and federal law prohibiting

1 advertising goods for sale as discounted from former prices that are false, and prohibiting  
2 misleading statements about the existence and amount of price reductions. Specifically,  
3 Hobby Lobby violated and continues to violate: California's Unfair Competition Law,  
4 Business and Professions Code §§ 17200, *et seq.* (the "UCL"); California's False  
5 Advertising Law, Business and Professions Code §§ 17500, *et seq.* (the "FAL"); the  
6 California Consumer Legal Remedies Act, Civil Code §§ 1750, *et seq.* (the "CLRA"); and  
7 the Federal Trade Commission Act ("FTCA"), which prohibits "unfair or deceptive acts or  
8 practices in or affecting commerce" (15 U.S.C. § 45(a)(1)) and false advertisements (15  
9 U.S.C. § 52(a)).

10 8. Plaintiff brings this action on behalf of herself and other similarly situated  
11 consumers who have purchased one or more Hobby Lobby branded and/or trademarked  
12 merchandise at Defendant's Hobby Lobby retail stores that were deceptively represented  
13 as discounted from false former "Marked" prices. Plaintiff seeks to halt the dissemination  
14 of this false, misleading, and deceptive pricing scheme, to correct the false and misleading  
15 perception it has created in consumer's minds, and to obtain redress for those who have  
16 purchased merchandise tainted by this deceptive pricing scheme. Plaintiff also seeks to  
17 enjoin Hobby Lobby from using false and misleading misrepresentations regarding retail  
18 price comparisons in their labeling and advertising permanently. Further, Plaintiff seeks  
19 to obtain damages, restitution, and other appropriate relief in the amount by which Hobby  
20 Lobby was unjustly enriched as a result of its sales of merchandise offered at a false  
21 discount.

22 9. Finally, Plaintiff seeks reasonable attorneys' fees pursuant to California Code  
23 of Civil Procedure § 1021.5, as this lawsuit seeks the enforcement of an important right  
24 affecting the public interest and satisfies the statutory requirements for an award of  
25 attorneys' fees.

## 26 II. JURISDICTION AND VENUE

27 10. This Court has original jurisdiction of this Action pursuant to the Class Action  
28 Fairness Act, 28 U.S.C. § 1332(d)(2). The matter in controversy, exclusive of interests and

1 costs, exceeds the sum or value of \$5,000,000 and at least some members of the proposed  
2 Class have a different citizenship from Hobby Lobby.

3 11. The Southern District of California has personal jurisdiction over the  
4 defendant named in this action because Hobby Lobby is a corporation or other business  
5 entity authorized to conduct and does conduct business in the State of California. Hobby  
6 Lobby is registered with the California Secretary of State to do sufficient business with  
7 sufficient minimum contacts in California, and/or otherwise intentionally avails itself of  
8 the California market through the ownership and operation of over 50 retail stores within  
9 the State of California and over 750 retail stores nationwide.

10 12. Venue is proper under 28 U.S.C. § 1391(b)(2) because Hobby Lobby transacts  
11 substantial business in this District. A substantial part of the events giving rise to Plaintiff's  
12 claims arose here.

### 13 **III. PARTIES**

#### 14 **Plaintiff**

15 13. Christina Chase resides in San Diego, California. Ms. Chase, in reliance on  
16 Hobby Lobby's false and deceptive advertising, marketing, and "discount" pricing  
17 schemes, purchased a 5" x 7" Green Tree Gallery Shadow Box Display Case Photo Frame  
18 for approximately \$8.99 on or around March 1, 2017 at a Hobby Lobby retail store located  
19 at 8810 Grossmont Boulevard, La Mesa, California 91942. She also purchased a Master's  
20 Touch Fine Art Studio Oil, Acrylic & Watercolor Chisel Blender for approximately \$2.34  
21 that same day. Ms. Chase went to the Hobby Lobby store to look for a picture frame for  
22 her home and for art supplies.

23 14. Ms. Chase first walked down an aisle lined with photo frames and selected a  
24 black wooden 5" x 7" Green Tree Gallery Shadow Box Display Case Photo Frame (the  
25 "picture frame"). The back of the picture frame had a white price tag sticker with black  
26 print, approximately 2" x 1 1/2" in size (attached hereto as Exhibit A). The price tag on  
27 the picture frame listed the "Marked" price as "\$17.99." Among the other picture frames,  
28 and prominently displayed upon a shelf in the picture frame aisle, was a white placard with

1 red and black print, approximately 8" x 11" in size. The placard advertised "Photo Frames  
2 50% OFF the Marked price" in bold print (attached hereto as Exhibit B).

3 15. After examining the price tag, in particular the "Marked" price as \$17.99, Ms.  
4 Chase believed the picture frame had previously been sold for \$17.99 at Hobby Lobby.  
5 When she examined the representation on the placard, displaying the discounted sale  
6 percentage of "50% OFF the Marked price," or \$8.99, Ms. Chase reasonably believed she  
7 was purchasing a picture frame that had a value significantly higher than the \$8.99 purchase  
8 price. In short, Ms. Chase believed she was getting a good deal.

9 16. However, this product was never offered for sale or sold at the \$17.99 price,  
10 nor was it offered for sale or sold at that price within the 90-day period immediately  
11 preceding Ms. Chase's purchase. Therefore, Ms. Chase was damaged by her purchase of  
12 the picture frame.

13 17. Next, Ms. Chase walked to the art supplies section of the store and selected a  
14 Master's Touch Fine Art Studio Oil, Acrylic & Watercolor, Golden Taklon Chisel Blender,  
15 Series 7050 Size 4 (the "paintbrush"). The back of the paintbrush had a white price tag  
16 sticker with black print, approximately 2" x 1 1/2" in size. The price tag on the paintbrush  
17 listed the "Marked" price as "\$4.69" (attached hereto as Exhibit C). Among the other art  
18 supply items, and prominently displayed upon a shelf in the art supply aisle, was a white  
19 placard with red and black print, approximately 8" x 11" in size. The placard advertised  
20 "Art Supplies 50% OFF the Marked price" in bold print.

21 18. After examining the price tag, in particular the "Marked" price as \$4.69, Ms.  
22 Chase believed the paintbrush had previously been sold for \$4.69 at Hobby Lobby. When  
23 she examined the representation on the placard, displaying the discounted sale percentage  
24 of "50% OFF the Marked price," or \$2.34, Ms. Chase reasonably believed she was  
25 purchasing a paintbrush that had a value significantly higher than the \$2.34 purchase price.  
26 In short, Ms. Chase believed she was getting a good deal.

27 19. However, this product was also never offered for sale or sold at the \$4.69  
28 price, nor was it offered for sale or sold at that price within the 90-day period immediately

1 preceding Ms. Chase's purchase. Therefore, Ms. Chase was damaged by her purchase of  
2 the paintbrush.

3 **Defendant**

4 20. Plaintiff is informed and believes, and upon such information and belief  
5 alleges, Defendant Hobby Lobby Stores, Inc. is a privately held, Oklahoma corporation  
6 with its principal place of business in Oklahoma City, Oklahoma. Defendant operates  
7 Hobby Lobby retail stores and the hobbylobby.com website, and advertises, markets, and  
8 distributes, and/or sells home décor, arts, crafts, hobby supplies, and other accessories in  
9 California and throughout the United States.

10 21. Plaintiff does not know the true names or capacities of the persons or entities  
11 sued herein as DOES 1-50 inclusive, and therefore sues such Defendants by such fictitious  
12 names. Plaintiff is informed and believes, and upon such information and belief alleges,  
13 that each of the DOE Defendants is in some manner legally responsible for the damages  
14 suffered by Plaintiff and the Class members, as alleged herein. Plaintiff will amend this  
15 Complaint to set forth the true names and capacities of these Defendants when they have  
16 been ascertained, along with appropriate charging allegations, as may be necessary.

17 **IV. FACTUAL BACKGROUND**

18 **The Fraudulent Sale Discounting Scheme**

19 22. Hobby Lobby is the largest privately owned arts-and-crafts retailer in the  
20 world, operating approximately 750 stores in the United States and over 50 stores in  
21 California, and earning approximately \$4 billion in revenue in 2015. Hobby Lobby sells  
22 merchandise including home décor, picture framing, decorative accessories, woodcrafts,  
23 jewelry making, fabrics, floral, party and wedding supplies, holidays, and arts. Hobby  
24 Lobby directly markets its merchandise to consumers in the State of California and  
25 throughout the United States via its in-store advertisements and its e-commerce website  
26 (www.hobbylobby.com). Hobby Lobby sells a variety of merchandise from its own brand  
27 and/or trademark, as well as from various manufacturers. This case involves only the  
28

1 Hobby Lobby branded and/or trademarked products sold by Hobby Lobby at its retail  
2 stores.

3 23. The Hobby Lobby branded and/or trademarked products sold in the Hobby  
4 Lobby retail stores are exclusively sold at Hobby Lobby and they are not sold anywhere  
5 else. Thus, there is no other market for the Hobby Lobby branded and/or trademarked  
6 products sold at Hobby Lobby other than at Defendant's Hobby Lobby retail stores.

7 24. Hobby Lobby engages in a scheme to defraud its customers by perpetually  
8 discounting its merchandise in its retail stores. Hobby Lobby consistently advertises its  
9 merchandise with a regular "Marked" price and a corresponding "\_\_% OFF" sale price.  
10 The "Marked" price conveys to the customer the purported regular price of the item. The  
11 "\_\_% OFF" sale price conveys to the customer a deeply discounted price at which the item  
12 is presently being offered for sale. The two prices (the "Marked" price and the "\_\_% OFF"  
13 price) are conveyed to consumers on the price tags and the corresponding price placards,  
14 respectively. The price tags are white stickers with black lettering and approximately 2" x  
15 1 1/2" in size. *See e.g.* Exhibit A. The price placards are primarily white with black and red  
16 print and approximately 8" x 11" in size. *See e.g.* Exhibit B.

17 25. Additionally, Hobby Lobby continuously advertises its fictitious discounts  
18 using in-store flyers. Upon entering the store, consumers are confronted with a 5'-tall  
19 metal stand that displays a large white informational advertisement depicting images of  
20 various items and listing the purported "\_\_% OFF" discounts for each corresponding item  
21 offered in the store. Immediately underneath the large informational advertisement is a  
22 small receptacle maintaining a stack of 8" x 11" paper flyers depicting the same  
23 advertisement and the "\_\_% OFF" discounts described above. The in-store flyers depict  
24 the "\_\_% OFF" discounts Hobby Lobby offers at any given week. An example of the in-  
25 store flyer is attached hereto as Exhibit D.

26 26. However, at no time is the Hobby Lobby merchandise ever offered for sale  
27 anywhere at the "Marked" price. The "Marked" price is merely a false reference price,  
28 which Hobby Lobby utilizes to deceptively manufacture a deeply discounted sale price