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1 2 3 4 5	Amir J. Goldstein (SBN 255620) The Law Offices of Amir J. Goldstein, Esq. E-mail: ajg@consumercounselgroup.com 7304 Beverly Boulevard, Suite 212 Los Angeles, CA 90036 Telephone: (323)937-0400 Fax: (866) 288- 9194 Attorney for Plaintiff
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8	UNITED STATES DISTRICT COURT
9	CENTRAL DISTRICT OF CALIFORNIA
10	OREN FRANKS, individually and on behalf ) CASE NO.: 2:24-cv-7482
11	of all others similarly situated,
12	Plaintiffs,
13	v. () CLASS ACTION COMPLAINT FOR DAMAGES
14 15	WEB EYE CARE, INC. and DOES 1 through ) 10 inclusive,
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17	Defendants.
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19	Plaintiff, by and through his attorney, Amir J. Goldstein, Esq., as and for his class action
20	complaint against the Defendant WEB EYE CARE, INC., alleges as follows:
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22	INTRODUCTION
23	1. Defendant Web Eye Care, Inc. sells corrective contact lenses on its website:
24	https://webeyecare.com.
25	2. Defendant advertises low prices to consumers, including Plaintiff, to lure
26	customers to its website. There, consumers fill out details about their corrective lens prescriptions, upload copies of prescriptions, provide address and contact information for their
27	doctor so that prescription information can be verified, and enter their personal information
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	1 CLASS ACTION COMPLAINT

including name, shipping address, billing address and credit card number or other payment
 information; many also create a dedicated, password protected account on Defendant's website
 during this process. Throughout this process, Defendant displays its advertised low prices on
 the screen.

3. However, late in the checkout process, only after a consumer has provided all of
this information on Defendant's website, Defendant increases the overall purchase price of the
transaction, well above its advertised rates. Defendant does everything it can to hide additional
fees, which are not clearly or obviously disclosed to consumers. Instead, consumers will likely
only notice Defendant's covert price increases if they realize the total amount they were actually
charged at the end of the checkout process is higher than the advertised rates they had been
seeing throughout, and many do not spot this discrepancy.

- This deceptive practice has unjustly enriched Defendant by millions of dollars at
   consumers' expense through years of hidden fees.
  - 5. This is a nationwide class action by Plaintiff and all other persons similarly
    situated who were overcharged by Defendant based on false, misleading, and deceptive
    advertising in violation of California Business and Professions Code §17500 et seq. Plaintiff
    also alleges violations under California Business and Professions Code §17200 et seq. and
    California Civil Code §1750 et seq. and has claims for breach of contract and breaches of the
    implied covenant of good faith and fair dealing.
    - **THE PARTIES**
    - 6. Plaintiff is a natural person residing in Mountainside, New Jersey. At all times mentioned herein, Plaintiff was a customer of Defendant Web Eye Care, Inc.
    - 7. Defendant Web Eye Care, Inc.is a Pennsylvania corporation that regularly conducts business in this district.
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## **JURISDICTION AND VENUE**

8. Jurisdiction in this civil action is authorized pursuant to 28 U.S.C. § 1332(d)(2).
The amount in controversy exceeds the sum or value of \$5,000,000, exclusive of interest and costs, and the matter is a class action in which one or more members of the proposed class are citizens of a state different from the Defendant.

9. This Court has supplemental jurisdiction over the State law claims in this matter
pursuant to 28 U.S.C. § 1367(a), as such causes of action are so related to the claims in the action
over which this Court has original jurisdiction pursuant to 28 U.S.C. § 1332 that they form part of
the same case or controversy under Article III of the United States Constitution.

10. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b) because, at all
 relevant times, Defendant Web Eye Care, Inc. has continuously transacted business in this district
 and ships its products to consumers who reside in this district.

# FACTUAL ALLEGATIONS

11. The Plaintiff repeats and realleges each and every allegation set forth above as if reasserted and realleged herein.

12. That approximately 45 million people in the U.S. wear corrective contact lenses.<sup>1</sup> To obtain contact lenses, a consumer must visit an eye care professional such as an optometrist for a contact lens fitting and obtain a prescription. Once a consumer obtains a prescription, they can purchase contact lenses.

13. That contact lenses are typically sold by the "box". Each box of contact lenses contains enough contact lenses to last a certain amount of time. For example, daily disposable contact lenses are often sold in boxes of 30 or 90 contact lenses.

14. That after a consumer visits an eye care professional's office for a contact lens
fitting and obtains a prescription, the eye care professional will typically offer to sell the
consumer a supply of contact lenses (usually a 6-month supply or a year supply). However,
consumers may choose other merchants from whom to purchase the contact lenses themselves.

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https://www.cdc.gov/contactlenses/fast-facts.html

1	Defendant Web Eye Care, Inc. is one such merchant advertising contact lenses to consumers, as
2	an alternative to an eye care professional.
3	15. That Defendant Web Eye Care, Inc. engages in deceptive and unlawful business
4	practices, at the expense of consumers including Plaintiff, by adding questionable and
5	undisclosed charges to a consumer's final bill. This typically results in a final price that is
6	significantly higher than Defendant's advertised prices. This is not actually a fee for any service;
7	it is a made-up charge that Defendant adds to increase the price and its profits.
8	16. That many consumers do not notice that additional charges are being added to
9	their order, because they are not prominently or clearly displayed anywhere during Defendant's
10	checkout process. In this way, Defendant's deceptive and false advertising increases its sales
11	and profit by deceiving its customers.
12	17. That on or about October 2023, Plaintiff visited Defendant's website,
13	https://webeyecare.com., to purchase prescription contact lenses.
14	18. That at the time of Plaintiff's purchase, the price advertised by Defendant for
15	Plaintiff's contact lenses was \$15.99 per box.
16	19. That at the time of Plaintiff's purchase, the price listed by Defendant for
17	Plaintiff's contact lenses was advertised as a "Promotional Price" and as an "ONLINE
18	PROMO."
19	← → C      websyscare.com/biomedics_55_premier_6_pack/18us=4557-2257/wButhm_source=googleButhm_medium=surfacesButhm_company=surfaces_0.mgoogleButhm_content=Cooper+VisionButhm_term=2557/wButht=reb/R3AadwordsR3Ag/R3A2076176059R3A4 G      C          é
20	Contact Lenses Contacts A-Z Eyeglasses Get Rx Insurance Sale
21	
22	<ul> <li>         Biomedics 55 Premier (6 Pack) ★★★★★<sup>1</sup> 7 Reviews   HSA FEB Eligible         </li> </ul>
23	Biomedics' 55 Premier S55 Biomedics' 55 Premier Biomedics' 55 Premier Biomedical Biomedi
24	Asphere UV Booking 6 contact lenses COOPErVision* 6 Months Supply 12 Months Supply Select
25	(2 boxes per eye)       (4 boxes per eye)       Quantity         (2 boxes per eye)       (4 boxes per eye)       Quantity         (2 boxes per eye)       (4 boxes per eye)       Quantity         (2 boxes per eye)       (4 boxes per eye)       Quantity         (2 boxes per eye)       (4 boxes per eye)       Quantity         (2 boxes per eye)       (4 boxes per eye)       Quantity         (2 boxes per eye)       (4 boxes per eye)       Quantity         (2 boxes per eye)       (4 boxes per eye)       Quantity         (2 boxes per eye)       (4 boxes per eye)       Quantity         (2 boxes per eye)       (4 boxes per eye)       Quantity         (2 boxes per eye)       (4 boxes per eye)       Quantity
26	TOTAL: 0 BOXES You save \$0.00
27	GET \$15 OFF X
28	

1	20. That based on the prices advertised on Defendant's website, Plaintiff decided to
2	place an order on <u>https://webeyecare.com</u> .
3	21. That Plaintiff relied on said pricing information on the Defendant's website and
4	decided to purchase two boxes for each eye, for a total of four boxes of contact lenses.
5	22. That when Plaintiff entered this quantity into his cart, Defendant claimed that
6	Plaintiff would "save \$120.00."
7	Free Shipping on Orders Over \$89 X
8	Web@vcare     Q. Search the store     8     6
9	Contact Lenses Contacts A-Z Eyeglasses Sunglasses Get Rx Insurance Sale
10	۵ Biomedics 55 Premier (6 Pack)
11	Biomedics* 55     \$15.99/box online promo     Retail Price: \$45.09
12	Premier asphere or 4 interest-free payments of \$15.96 with \$ sezzle or affinition 0 How many boxes do you need?
13	UV Bocking 6 contact lenses COOPErVision* 6 Months Supply (2 boxes per eye) 12 Months Supply (4 boxes per eye) Quantity
14	Quantity
15	Save 10% off all future orders by adding our Subscription service ?
16	GET \$15 OFF X TOTAL: 4 BOXES You save \$120.00
17	In Stock. Promotional Price - Coupons
18	23. That Plaintiff then opted for the "5-10 Business Day Ground" shipping method for
19	his contact lenses, which according to Defendant's website, would not cost the Plaintiff any
20	additional charges for shipping.
21	24. That Plaintiff did not purchase any other items.
22	25. That based on this information, Plaintiff's purchase price for four boxes of contact
23	lenses, including the free shipping, should have been approximately \$63.96.
24	26. That when Plaintiff submitted his order, the total for Plaintiff's purchase was
25	listed by Defendant as "\$155.80."
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1	WeblynEure - Shopping Cut          x
2	webgycare
3	Home - Your Cart
4	Shopping Cart     Order Summary       Item Description     You're saving \$40.20
5	Biomedics 55 Premier 6 Pack Edit Prescription <u>- 4 boxes +</u> \$155.80 \$196.99
6	Grand Total: \$155.80 Grand Total: \$155.80 Proceed to checkout →
7	Proceed to checkout
8	Have a Coupon code?     Earn 1558 Reward Points     C Pay
9	web_cycare © 2023 WebEyeCare.com. All rights reserved. Privacy Policy Terms and Conditions © & • • • • • • • • • • • • • • • • • •
10	Finally Policy Terms and Conditions
11	27. That the total purchase price for Plaintiff's transaction should have only been 🧿
12	\$63.96, based on the pricing information provided on Defendant's website, which means
13	Defendant charged Plaintiff an overage of \$91.84.
14	28. That there were no other line-item charges listed on the Plaintiff's "Order
15	Summary" to account for the overage of \$91.84.
16	29. That there were no other line-item charges or surcharges listed on Plaintiff's order
17	confirmation to account for the overage of \$91.84.
18	30. That the customers who visit Defendant's website are likely to, and the Plaintiff
19	did in fact, submit his order without noticing that the Defendant inflated its prices and charged
20	Plaintiff for more than the prices advertised on its website.
21	31. That no reasonable consumer expects that an advertised price hides arbitrary and
22	fictitious charges that will substantially increase its final purchase price.
23	32. That upon information and belief, millions of Defendant's customers do not
24	realize that they have been subject to an overcharge.
25	33. That Defendant knowingly inflated its costs and unlawfully hid excess charges
26	from customers like the Plaintiff.
27	34. That the Defendant's advertisements are falsified and misleading to attract
28	customers, like the Plaintiff, to its website.
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1	35.	That the prices listed on Defendant's website deceptively lured the Plaintiff to buy
2	his contact l	enses from the Defendant.
3	36.	That Defendant's website contains misrepresentations regarding its prices and
4	feeds custor	ners misleading information in a deceptive manner.
5	37.	That the prices listed on Defendant's website deceptively lured Plaintiff, and other
6	consumers,	to buy contact lenses from the Defendant.
7	38.	That the Defendant's representations are material to the customer's decision-
8	making proc	cess and have the capacity to deceive, and actually do deceive, customers, like the
9	Plaintiff.	
10	39.	That as a result of Defendant's conduct, Plaintiff and others similarly situated,
11	have been d	amaged.
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13		FIRST CAUSE OF ACTION
14	40.	The Plaintiff repeats and realleges each and every allegation set forth above as if
15	reasserted a	nd realleged herein.
16	41.	The California Business and Professions Code §17500, et seq., prohibits false or
17	deceptive ad	lvertising to consumers about the nature of a product or service.
18	42.	That Defendant, by engaging in the acts hereinabove described, has committed
19	violations u	nder California Business and Professions Code §17500 et seq.
20	43.	That the Defendant is a corporation in the business of selling contact lenses to
21	consumers,	like the Plaintiff, via the internet.
22	44.	That the Defendant acted with intent and knowingly and/or recklessly
23	misrepresen	ted objective facts, i.e. its price per item.
24	45.	That Defendant's misrepresentations and nondisclosures are material, in that a
25	reasonable p	person would have attached importance to said information and would be induced to
26	act on said i	nformation in making purchase decisions.
27	46.	That the Plaintiff and class members reasonably relied on the representations
28	and/or omis	sions of the Defendant to purchase products from the Defendant.
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1	47.	That the Plaintiff and class members suffered financial harm as a consequence of
2	Defendant's	s false advertising.
3	48.	That pursuant to California Business and Professions Code § 17506, the Plaintiff
4	and class m	embers are entitled to recover actual damages and restitution.
5		
6		SECOND CAUSE OF ACTION
7	49.	The Plaintiff repeats and realleges each and every allegation set for above as if
8	reasserted a	nd realleged herein.
9	50.	That the Consumer Legal Remedies Act ("CLRA") or Cal. Civ. Code §1750, et
10	seq. protect	s consumers against unfair and deceptive business practices and provides efficient
11	and econom	nical procedures to secure such protection.
12	51.	That Defendant, by engaging in the acts hereinabove described, has committed
13	violations o	f the CLRA.
14	52.	That the Defendant is a "person" within the meaning of Cal. Civ. Code § 1761(c).
15	53.	That the Plaintiff is a "consumer" within the meaning of Cal. Civ. Code §
16	1761(d).	
17	54.	That the products and services marketed and sold by Defendant are "goods" and
18	"services" v	vithin the meaning of Cal. Civ. Code § 1761(a) and (b), respectively.
19	55.	That the purchase of goods at issue here constitutes a "transaction" within the
20	meaning of	Cal. Civ. Code § 1761(e).
21	56.	That the purchase of goods at issue here was for personal, family and household
22	purposes wi	ithin the meaning of Cal. Civ. Code § 1761(d).
23	57.	That venue is proper because a substantial number of unlawful transactions
24	occurred in	this district.
25	58.	That Defendant intentionally deceived Plaintiff and continues to deceive the
26	public by m	isrepresenting its prices, failing to disclose excess charges or the true prices of its
27	goods and s	ervices, and by misrepresenting and failing to adequately disclose material
28	information	about the true prices of its goods and services.
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1	59. That the Plaintiff contacted Defendant to notify it of its unlawful conduct pu	ırsuant
2	to Cal. Civ. Code § 1782, et seq.	
3	60. That Defendant has a duty to adequately disclose pricing information to its	
4	consumers, like the Plaintiff.	
5	61. That the Defendant's misrepresentations and nondisclosures deceive, and ha	ive a
6	tendency to deceive, the general public.	
7	62. That the Defendant's misrepresentations and nondisclosures are material, in	sofar
8	as a reasonable person would attach importance to said information and would be induced	to act
9	on said information in making purchase decisions.	
10	63. That the Plaintiff reasonably relied on Defendant's misrepresentations and v	vould
11	not have purchased goods from the Defendant had he known the truth.	
12	64. That as a result of Defendant's conduct, Plaintiff and class members have be	en
13	damaged.	
14		
15	THIRD CAUSE OF ACTION	
16	65. The Plaintiff repeats and realleges each and every allegation set forth above	as if
17	reasserted and realleged herein.	
18	66. The California Business and Professions Code §17200, et seq., prohibits un	fair
19	competition, which includes any unlawful, unfair or fraudulent business act.	
20	67. That Defendant, by engaging in the acts hereinabove described, has commit	ted
21	violations and that said acts are therefore per se violations of the California Business and	
22	Professions Code Section 17200 et seq.	
23	68. That the harm caused by Defendant's conduct outweighs any benefits that	
24	Defendant's conduct may have.	
25	69. That consumers, like the Plaintiff, are likely to be deceived, and that the Pla	intiff
26	was in fact deceived, by Defendant's conduct.	
27	70. That the Defendant has been unjustly enriched by committing said acts.	
28	71. That as a result of Defendant's conduct, Plaintiff has been harmed and has	
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1	suffered damages.	
2	72. That as a direct and proximate result of Defendant's unlawful, unfair and	
3	fraudulent business practices as alleged herein, the Plaintiff has suffered substantial injury in	
4	fact and lost money and/or property.	
5	73. That pursuant to California Business and Professions Code § 17200, et seq., the	
6	Plaintiff is entitled to recover actual damages and restitution.	
7		
8	FOURTH CAUSE OF ACTION	
9	74. Plaintiff repeats and realleges each and every allegation set forth above as if	
10	reasserted and realleged herein.	
11	75. That the Defendant, by engaging in the acts hereinabove described, breached its	
12	contract with the Plaintiff, and other consumers like the Plaintiff, by the following acts which	
13	include, but are not limited to: making various misrepresentations; sending out false	
14	information; mischaracterizing the total costs for transactions; for failing to provide accurate	
15	disclosures; and for failing to honor their obligations as set forth in its purchase agreement.	
16	76. That Defendant breached its respective contracts with the Plaintiff, and other	
17	consumers like the Plaintiffs, by making misrepresentations which were accepted and acted on	
18	in reliance of the same and for making false statements.	
19	77. That as a result of the Defendants' conduct, the Plaintiff and other consumers like	;
20	the Plaintiff, suffered damages.	
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22	FIFTH CAUSE OF ACTION	
23	78. The Plaintiff repeats and realleges each and every allegation set forth above as if	
24	reasserted and realleged herein.	
25	79. That Defendant, by engaging in the acts hereinabove described, has violated the	
26	covenant of good faith and fair dealing.	
27	80. That Defendant abused its discretion by imposing various fees and charges on its	
28	customers, like the Plaintiff, and by failing to properly disclose said charges at the point of	
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1	purchase.
2	81. That upon information and belief, Defendant imposes extra fees and hidden
3	surcharges on customers like the Plaintiff as a covert way of increasing its profits.
4	82. That Defendant's imposition of extra fees and hidden surcharges defied the
5	reasonable expectations of consumers, like the Plaintiff.
6	83. That Defendant's conduct was objectively unreasonable, arbitrary and in bad faith
7	and therefore has the effect of denying consumers like the Plaintiff the full benefit of their
8	bargain with the Defendant.
9	84. That Plaintiff performed all of his obligations toward the Defendant, whereas
10	there is no legitimate excuse or defense for Defendant's conduct.
11	85. That as a result of Defendant's conduct, Plaintiff and class members have been
12	damaged.
13	86. That because Defendant cannot defend its overcharging and cannot find any
14	grounds to excuse its abuses of discretion, it cannot preclude the Plaintiff for recovering for
15	Defendant's breaches of good faith and fair dealing.
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17	CLASS ALLEGATIONS
18	87. The Plaintiff repeats and realleges each and every allegation set forth above as if
19	reasserted and realleged herein.
20	88. This action is brought on behalf of Plaintiff and the members of a class.
21	89. That the class consists of all persons whom Defendant's records reflect visited
22	Defendant's website to purchase contact lenses, were misled based on Defendant's
23	misrepresentations and paid for charges that were not properly disclosed by Defendant at the
24	time of purchase.
25	90. That upon information and belief, Plaintiff alleges that the number of putative
26	Class Members in the class exceeds five million and that the aggregate overcharges in each
27	putative Class exceed \$10 million, exclusive of interest and costs.
28	91. There is a special and compelling need for nationwide class certification. The
	11 CLASS ACTION COMPLAINT

1 relatively small dollar amounts charged to each consumer make individual actions 2 uneconomical. Therefore, it is extremely unlikely that individual claims will be brought against 3 Defendant. Defendant would not be able to retain its ill-gotten gains in the absence of a 4 nationwide class action. 5 92. There is an acute danger of inconsistent verdicts in other states if class 6 certification is limited to California. This is the type of case that needs to be adjudicated once 7 for the entire nation. Any state law variations fall into a limited number of predictable patterns 8 and do not render the action unmanageable if it is certified as a nationwide class action. 9 93. The choice of California as the forum for the nationwide class action is not 10 arbitrary or unfair. The contacts with California are more significant than any other state, 11 including the fact that California is the most populous State with approximately 12% of the population of the United States and therefore it is likely that there are more Class Members in 12 13 California than any other State. 14 94. Pursuant to Federal Rule of Civil Procedure 23, a class action is appropriate and 15 preferable in this case because: 16 (A) Based on the facts that the unlawful conduct by Defendant, including 17 Defendant's deceptive marketing practices and false advertising, are at the heart of this litigation, 18 the class is so numerous that joinder of all members is impracticable. 19 (B) There are questions of law and fact common to the class and these questions 20 predominate over any questions affecting only individual class members including: 21 i. Whether Defendant's sales and billing practices, as alleged herein, are unjust 22 and unreasonable in violation of the law; 23 ii. Whether Defendant's website adequately discloses all terms, fees, and 24 conditions of purchases to consumers as required under the law; 25 Whether Defendant was unjustly enriched by the concealing fees from iii. 26 consumers; 27 Whether Plaintiff and the Class have sustained damages and, if so, the proper iv. 28 measure thereof; and

1	v. Whether Defendant should be enjoined from the unlawful practices alleged
2	herein.
3	(C) The only individual issue is the identification of the consumers like the
4	Plaintiff, a matter capable of ministerial determination from the records of Defendant.
5	(D) The claims of the Plaintiff are typical of those of the class members. All are
6	based on the same facts and legal theories. All putative Class Members have suffered identical
7	injuries, that is overcharges for inaccurate or unauthorized surcharges.
8	(E) The Plaintiff will fairly and adequately represent the class members' interests.
9	The Plaintiff has retained counsel experienced in bringing class actions and consumer-abuse
10	claims. The Plaintiff's interests are consistent with those of the members of the class.
11	95. A class action is superior for the fair and efficient adjudication of the class
12	members' claims. Congress specifically envisions class actions as a principal means of
13	enforcing consumer protection statutes and other laws. The members of the class are generally
14	unsophisticated individuals, whose rights will not be vindicated in the absence of a class action.
15	Prosecution of separate actions by individual members of the classes would create the risk of
16	inconsistent or varying adjudications resulting in the establishment of inconsistent or varying
17	standards for the parties and would not be in the interest of judicial economy.
18	96. If the facts are discovered to be appropriate, the Plaintiff will seek to certify a
19	class pursuant to Rule 23(b)(3) of the Federal Rules of Civil Procedure. All applicable notice
20	deadlines and statutes of limitations have been tolled by the delayed discovery rule.
21	97. That as this case progresses and the parties engage in discovery exchange, the
22	putative Class will be subject to further definition and refinement.
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24	PRAYER FOR RELIEF
25	WHEREFORE, Plaintiff and the putative Class Members pray for the following relief:
26	1. An order certifying the class defined above, appointing Plaintiff as class
27	representative and appointing his attorney as class counsel;
28	2. Equitable and injunctive relief;
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1	3.	3. Restitution;					
2	4.	4. Judgment for damages, including actual, statutory, treble and punitive, where					
3		applicable;					
4	5.	Pre- and post-judgment interest on the above amount;					
5	6.	6. Attorney's fees and costs of this action; and					
6	7.	7. For such other and further relief as may be just and proper, including but not limited					
7	to a preliminary and permanent order enjoining the Defendant(s) and its agents,						
8	employees, affiliates and/or subsidiaries, from otherwise engaging in the unlawful						
9	and unfair acts and practices alleged herein.						
10 11							
11	<u>JURY DEMAND</u> Plaintiff requests trial by jury on all issues so triable.						
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14							
15	Dated: September 3, 2024 AMIR J. GOLDSTEIN, ESQ.						
16				<u>/S/ A</u>	mir J. Goldstein		
17	Amir J. Goldstein, Esq. Attorney for Plaintiff						
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