

EXHIBIT C

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SOLANO SUPERIOR COURT

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J. ABUELO

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5 ATTORNEYS FOR PLAINTIFFS

6 SUPERIOR COURT OF THE STATE OF CALIFORNIA
7 COUNTY OF SOLANO

8 DEANNA PELLETIER, an individual, on her
9 own and on behalf of all others similarly situated,

Case No. *FC5034684*

10 Plaintiff,

CLASS ACTION COMPLAINT
AND JURY DEMAND

11 v.

12 PACIFIC WEBWORKS, INC., a Nevada
13 corporation, and JOHN DOE DEFENDANT,

ASSIGNED TO
JUDGE *Ramona GARRETT*
FOR ALL PURPOSES

14 Defendants,

EFFECTIVE 01/04/2010

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16 CLASS ACTION COMPLAINT AND DEMAND FOR JURY TRIAL

17 Plaintiff, Deanna Pelletier, brings this Class Action Complaint against Defendant
18 Pacific WebWorks, Inc. and John Doe Defendant (hereinafter collectively referred to in the
19 singular as "Defendant") based upon Defendant's practice of deceptively billing Plaintiff and
20 similarly-situated others for unauthorized charges. Plaintiff, for her Class Action Complaint,
21 alleges as follows upon personal knowledge as to herself and her own acts and experiences
22 and, as to all other matters, upon information and belief, including investigation conducted
23 by her own attorneys.

24 Parties

- 25 1. Plaintiff Deanna Pelletier is a California resident residing in Vacaville, California.
26 2. Defendant Pacific WebWorks is an online provider of work-at-home products
27 marketed to consumers nationwide. Pacific Web Works is a Nevada corporation

28 Complaint

1 headquartered in and having its principal place of business at 230 West 400 South, 1st Floor,
2 Salt Lake City, Utah 84101.

3 3. John Doe Defendant is an online advertising network that participates in the acts and
4 practices that are the subject of Plaintiff's complaint. John Doe Defendant participated in the
5 deceptive acts and practices that victimized Plaintiff. On information and belief, John Doe
6 Defendant is one of the following corporations or corporate d/b/a's: (1) Tracking202, Inc.;
7 (2) Media Trust LLC (Advaliant); (3) CyberPlex Inc. (CX Digital Media); (4) Coleadium,
8 Inc. (Ads4Dough); (5) JAR Media LLC; (6) Sybtrack.com; (7) eSynergy Media LLC; (8) W4
9 Media LLC; (9) Bskytracking.com; (10) GMB Direct, Inc.; (11) Elite Clicks Media LLC;
10 (12) Tracklead.net; (13) Track606.com; (14) Intermark Communications, Inc. (Copeac); (15)
11 Zoomleads.net; (16) Venture Incorporated (Neverblue); (17) Lidango; and (18)
12 Convert2Media LLC.

13 **Jurisdiction and Venue**

14 4. This Court has jurisdiction over the causes of action asserted herein pursuant to the
15 California Constitution, Article VI, §10, because this case is a cause not given by statute to
16 other trial courts.

17 5. This Court has jurisdiction over Defendant pursuant to California Code of Civil
18 Procedure section § 410.10 because it conducts substantial business in the State of California
19 and/or many of Defendant's wrongful acts directly affect California residents like Plaintiff.

20 6. Venue is proper in this Court pursuant to the California Code of Civil Procedure
21 section (what?) because Plaintiff resides in Solano County.

22 **Facts Common to All Counts**

23 7. With unemployment rising and wages stagnant, Americans are suffering through the
24 worst economy in decades. In these hard times, ordinary consumers are more than ever
25 subjected to a proliferation of work-at-home offers that promise the ability to easily make
26 thousands of dollars from at-home businesses.

1 8. The offers hosted by Defendant Pacific WebWorks state that consumers will work
2 directly with and be well-paid by the giant web search engine Google. The ability to work
3 for this enormously successful company reasonably supports the promise of good income
4 described in the offers from Defendant.

5 9. Defendant's offers begin as initial representations made through a common deceptive
6 scheme, constituting spam email offers, sponsored links, banner ads on internet search pages,
7 and links in fake news articles and fake blogs. The purpose of each of these initial
8 representations is to drive consumer traffic to credit card submit landing pages at which a
9 purchase can be made.

10 10. These sponsored links, banner ads, fake news articles, and similar methods of gaining
11 a consumer's attention are created and operated by a group of affiliate marketers and ad
12 networks whose sole objective is to drive traffic to merchant landing pages such as those
13 selling Defendant Pacific WebWorks's products. John Doe Defendant acts in this space as
14 an ad network and/or affiliate marketer, and in that capacity, actively drives traffic to Pacific
15 WebWorks websites for its own monetary gain.

16 11. Defendant Pacific WebWorks and John Doe Defendant work together to "optimize"
17 transaction pages so as to drive ever-higher rates of purchase. Both are motivated to take this
18 active role because the sales revenue generated on a Pacific WebWorks site is the only way
19 that both Pacific WebWorks and the upstream ad networks are compensated. Therefore, the
20 John Doe Defendant has a vested interest in not only directing consumers to the product
21 page, but also ensuring and actively inducing the consumer to actually purchase the product.
22 This optimization can include changing the design of ad pages in the order path including the
23 color, words used, placement of words, font size, placement of the Terms of Service, and the
24 use of such "pressures" as phrases like "You Qualify for Instant Access!" and "...these kits
25 are going FAST!," or the use of running timers counting down the minutes left before an
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1 offer "expires." Such pressures are simply fabrications and are dynamically inserted into the
2 website at specified screen locations to further drive sales.

3 12. As a primary inducement, consumers are often simply responding to the many initial
4 representations and screenshots that appear to state a relationship with Google itself. The use
5 of Google's name in this manner, and specifically the prospect of working for one of the
6 world's most successful companies, appears as a primary non-price inducement to
7 deceptively entice consumers to purchase the Pacific WebWorks product.

8 13. After a consumer is directed by a John Doe Defendant to a Pacific WebWorks
9 landing page displaying a work-at-home offer, Defendant pushes a product, often a CD or
10 software kit, purportedly designed to enable consumers to "Earn up to \$978 or more a day
11 using GOOGLE," "Work from Home & learn to make \$1000s a day using GOOGLE!," and
12 "Anyone with a computer and basic typing skills can make money using Google!"

13 14. These landing pages typically contain language describing their offering "As seen
14 on: Fox News, CNN," and "USAToday." The website prominently features network logos
15 without license from these media entities and are plainly designed to suggest to a consumer
16 that the offering is supported by a reputable entity. Pacific WebWorks products have never
17 been "seen on" or endorsed by any of the networks claimed on the website.

18 15. The initial landing page seen by a consumer is bright and welcoming, and promises
19 "FAST CASH USING GOOGLE" and "HOME INCOME USING GOOGLE," among other
20 pleasing inducements. Representations that drive consumers to these landing pages promise
21 "\$7500 a month Working from Home Job: requires basic computer skills." Banner ads even
22 promise "scam free" offers that link to landing pages used by Defendant on which consumers
23 are promised Pacific WebWorks products at prices that are not, in fact, remotely close to the
24 actual price charged by Pacific WebWorks.

25 16. Defendant's landing pages contain a testimonial photo of a consumer that benefited
26 from Defendant's product. In fact, this photo is a fake, inasmuch as Defendant simply uses a
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1 stock photo (commonly available at websites like iStockPhoto.com) and fabricates the
2 testimonial.

3 17. In furtherance of the deception, Defendant's landing pages may be reached from
4 embedded links in fake blog testimonials ("flogs") and fake news articles with, again, stock
5 photos and testimonials purportedly representing actual consumers from one's own city or
6 state. These consumers relate stories of terrific success using the Pacific WebWorks product.
7 Examples of these flogs and fake news articles deceptively used to sell Pacific WebWorks's
8 products are:

9 a. "USA Online Journal-Finance News" in which "Mary Steadman"¹ tells how
10 she "quit her boring job as a manufacturer's representative" and "now makes \$6,500+ a
11 month" using Pacific WebWorks products.

12 b. "Consumer Weekly," in which the same "Mary Steadman," now portrayed as
13 "Elaine Love," also lost her "boring" manufacturing job and now makes thousands using
14 Pacific WebWorks products.

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18 ¹ "Mary Steadman," the most widely used fake person in fake news articles selling work-at-
19 home products, is also featured on the following fake news sites, and at least 90 more
websites all across the internet:

20 www.SanFrancisco-Tribune.com, www.SanFranCiscoCityHerald.com, [www.Sandiego-Tribune.com](http://www.Sandiego-
21 <a href=), www.SanJose-Herald.com,
22 www.SanJose-Times.com, www.TheLosAngelesJournal.com,
23 www.LosAngelesTribuneNews.com, www.LosAngelesNews7.com,
24 www.LosAngelesFinanceNews.com, www.Los-Angeles-Weekly.com,
25 www.LosAngelesDispatch.com, www.4KAWeekIn3Steps.com, www.Action7Journal.com,
26 www.AmericaFinanceNews.com, www.AmericaJobJournal.com,
27 www.AmericaNewsDaily.com, www.B12-Media.com, www.BargainBoomer.com,
28 www.Best-Job-In.com, www.BirminghamTribune.co.uk, www.Boston-BusinessNews.com,
www.Boston-Tribune.com, www.BostonFinanceNews.com, www.BostonGazetteNews.com,
www.OrlandoWebTimes.com, www.ReadSomeNews.com, www.Online-Job-News.com,
www.NYGazetteNews.com,
www.NewYorkPostHerald.com, www.NewYorkPostHerald.com.

1 c. "Chicago Job News" at which "Jerry Reynolds" describes how he "lost his
2 boring job as an account representative for a manufacturing company" and "now makes
3 \$5,500+ a month just by submitting small text ads online on Google."

4 d. "Scott Hunter" on "wthguide.info," a fake blog that states how Mr. Hunter
5 also "lost his job as a boring account representative for a manufacturing company." "Scott"
6 makes "\$9,000+ a month just by submitting small text ads on Google." Upon information
7 and belief, "Scott Hunter" is the pseudonym of an affiliate marketer driving traffic to a
8 Pacific WebWorks site.

9 18. Defendant Pacific WebWorks also derives sales from online traffic routed through
10 fake consumer review sites. At these sites, alleged "advocates" for consumers endorse
11 PacificWebWorks's products with laudatory language and within the body of the fake
12 reviews link to deceptive transaction pages for those products.

13 19. The online order path leading to Defendant's transaction pages are littered with
14 pictures of individuals that testify to the success they have enjoyed using Pacific
15 WebWorks's product. The individuals in Defendant's fake photos are not from the
16 consumer's city or state; in fact, the specific locale represented is dynamically generated by
17 instructions contained in the underlying source code for the screen page presented. That is,
18 "Sara Stanley" from "Sacramento" is in fact simply a fictitious person whose city name is
19 generated by source code that recognizes and responds to the (Sacramento) IP address of the
20 consumer's computer.

21 20. A consumer is required to give Pacific WebWorks certain "personally identifying
22 information" (PII) to "CHECK AVAILABILITY" of this "LIMITED TIME OFFER!" A
23 consumer's submission of her PII enables Pacific WebWorks to sell this information to other
24 marketers of goods and products. Thus, a consumer actually does not have to "qualify" for
25 anything, but is instead submitting to a lead generation process by which their PII (a "lead")
26 is monetized by Pacific WebWorks and the consumer unknowingly "consents" to the receipt
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1 of additional email offers from an untold number of merchants, *i.e.*, anyone to whom Pacific
2 WebWorks can sell this information.

3 21. The product offered by Pacific WebWorks is promised at the minimal price of \$2.00
4 or less, which is represented as covering all costs of the product.

5 22. Importantly, in order to cover this small charge, Pacific WebWorks requires that
6 consumers give it a credit card number.

7 23. A consumer's credit card number is entered into a credit card submit field on an
8 online transaction page (the transaction page most often directly follows the landing page –
9 the order path may be understood as starting with the initial representation that drives traffic
10 to the landing path where a consumer's PII is taken. A billing or transaction page completes
11 the online order path).

12 24. Materially, the only price representation clearly and conspicuously displayed on the
13 credit card submit page or in proximity to the credit card submit box is a line that states
14 "Total: \$1.97."

15 25. Calls to action like "LIMITED TIME OFFER!" and "WORK FROM HOME, SET
16 YOUR OWN HOURS, THEN LIVE YOUR LIFE!" are found on these pages. These
17 phrases are part of a static background image that are saved and displayed every time the
18 page loads on a consumer's browser.

19 26. Compelling phrases including "Satisfaction Guaranteed," and "100% Trusted!"
20 appear in large print scattered about the page.

21 27. Ultimately, a consumer reasonably understands that ordering the Pacific WebWorks
22 product is an action that will cause them to incur a small charge on their credit card. In fact,
23 this small price is simply bait for a credit card number that can then be used to impose
24 additional charges on the consumer.

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1 28. Though the actual price of a product is always material, Defendant hides the real
2 price of its product in small print on or under the transaction page or simply does not disclose
3 it at all on this checkout page.

4 29. By simply submitting credit card information to Pacific WebWorks in payment of the
5 discounted fee of \$1.97 (Defendant also offers identical products at \$.97, \$1.95, and \$2.95), a
6 consumer unwittingly agrees to a monthly recurring charge of \$79.90 (also, in some
7 instances, \$69.90) for access to a program purportedly containing information that enables a
8 consumer to "Start Making Money Today!"

9 30. Materially, and wholly absent any clear and conspicuous price disclosure, consumers
10 may also find that they have been billed \$24.90 by Defendant for another, unknown product.
11 This charge is recurring in that it appears every month on a consumer's bill. This
12 undisclosed negative option, deceptively tied to a consumer's agreement to pay a small
13 amount for a Pacific WebWorks product, is charged to consumers entirely without their
14 authorization.

15 31. Thus, a consumer reasonably expecting to pay \$1.97 for a Pacific WebWorks product
16 will be charged that sum plus: 1) \$79.90, and 2) \$24.90 a month for as long as the consumer
17 fails to notice this charge and object to it.

18 32. Only the charge of \$1.97 is clearly and conspicuously disclosed to a consumer
19 responding to an offer from Defendant.

20 33. Pacific WebWorks acts with John Doe Defendant to drive traffic to, promote, and sell
21 its work-at-home product. Correspondingly, all Defendants optimize and continually oversee
22 the creation of the deceptive advertisements concealing material terms and conditions,
23 described herein, and all receive significant revenue from the sale of each poorly-disclosed
24 Pacific WebWorks product.

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1 34. Defendant knows or should know that these ads and offers violate clearly established
2 laws requiring, among other seminal concerns, that all material purchase terms be clearly and
3 conspicuously disclosed to consumers.

4 35. Although Defendant uses a number of specific paths and representations for their
5 deception, each order path has a core, common underpinning, namely that a consumer will
6 only be charged \$1.97 for a work at home product sold by or directly associated with Google.

7 Facts Relating to the Plaintiff Deanna Pelletier

8 36. During the relevant period, Plaintiff Deanna Pelletier received an email solicitation
9 advertising a Google work-at-home opportunity. Plaintiff is currently unemployed and
10 receiving social security disability payments as her primary source of income. Plaintiff
11 clicked on a link within that email message that took her to what appeared to be a news
12 article describing the life-changing experience of a woman that utilized a Pacific WebWorks
13 product to make \$5,000.00 a month. This site contained a link to the PII landing page
14 described above and from which Plaintiff reasonably understood that she could receive the
15 Pacific WebWorks product (Google Business Kit) for \$1.97. Plaintiff reasonably believed
16 that this was a Google offer.

17 37. Plaintiff did not know that Google itself has nothing to do with this product nor did
18 Plaintiff reasonably understand that, by agreeing to pay Defendant \$1.97, she also
19 "consented" to be billed for unrevealed products or services at an undisclosed price for an
20 ongoing period.

21 38. Plaintiff only authorized Defendant to bill her credit card the charge of \$1.97.
22 Nevertheless, and wholly without authorization from Plaintiff, Pacific WebWorks took from
23 Plaintiff an additional \$79.90.

24 39. Plaintiff called repeatedly to request a refund. Plaintiff finally did speak with a
25 representative and Plaintiff told Defendant's representative that she 1) never authorized
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1 Pacific WebWorks to bill her card the sum of \$79.90, 2) never received the Google Kit, and
2 3) wanted to cancel her order and receive a refund of the unauthorized charge of \$79.90.
3 40. Plaintiff told the Pacific WebWorks representative that she would not have agreed to
4 pay \$79.90 for this product if she would have clearly understood that this was the actual price
5 for the product offered. Nevertheless, despite her vehement assertions that she should not be
6 charged this price, Defendant refused to give Plaintiff a refund of this money.

7 41. Incredibly, after this conversation with Defendant's representative, Plaintiff has also
8 been charged the additional sum of \$24.90 each month by Pacific WebWorks. Plaintiff does
9 not know what this charge is for and has called Pacific WebWorks repeatedly in an effort to
10 also have this charge removed from her credit card bill. Plaintiff has been assured by various
11 Pacific WebWorks's representatives that this charge will be removed. Despite these
12 assurances, Plaintiff continues to be charged \$24.90 each month by Pacific WebWorks.

13 42. Plaintiff has *not* been given a refund from Pacific WebWorks.

14 Amount in Controversy

15 43. Plaintiff makes no specific allegation that the amount in controversy (including
16 requests for attorneys' fees, injunctive relief, etc.) exceeds any specific amount. Specifically,
17 Plaintiff makes no allegations that the amount in controversy exceeds \$5,000,000.

18 Class Allegations

19 44. Plaintiff brings this action pursuant to Code of Civil Procedure § 382 on behalf of
20 herself and a Class and one SubClass:

21 **Pacific WebWorks Class:** Plaintiff brings this action on behalf of herself and a Class
22 of similarly situated individuals, defined as follows:

23 all California residents who submitted payment information to a Pacific WebWorks
24 website for the purpose of obtaining Pacific WebWorks's products or services, and
25 who were charged any amount other than a stated shipping and handling or
discounted fee.

26 **John Doe Defendant SubClass:** Plaintiff brings this action on behalf of herself and
27 a SubClass of similarly situated individuals, defined as follows:

1 all California residents who submitted credit card information to a Pacific
2 WebWorks website for the purpose of obtaining Pacific WebWorks's products or
3 services, who were charged any amount other than a stated shipping and handling or
4 discounted fee, and that were traceably driven to a Pacific WebWorks website(s) by
5 John Doe Defendant, or affiliate marketers acting through or in conjunction with
6 John Doe Defendant.

7 The following people are excluded from the Class and SubClass: 1) any Judge or
8 Magistrate presiding over this action and members of their families; 2) Defendant,
9 Defendant's subsidiaries, parents, successors, predecessors, and any entity in which the
10 Defendant or its parents have a controlling interest and its current or former employees,
11 officers and directors; and 3) persons who properly execute and file a timely request for
12 exclusion from the class and 4) the legal representatives, successors or assigns of any such
13 excluded persons.

14 45. Hereinafter, the above-described Class and SubClass shall be stated as "Classes" for
15 purposes of this Complaint.

16 46. **Numerosity:** The exact number of the members of the Classes is unknown and not
17 available to Plaintiff, but it is clear that individual joinder is impracticable, in satisfaction of
18 Code of Civil Procedure § 382. On information and belief, Defendant has deceived
19 thousands of consumers who fall into the definitions set forth in the Class and SubClass. All
20 members of the Classes can be identified through Defendant's records.

21 47. **Typicality:** Plaintiff's claims are typical of the claims of other members of the
22 Classes, as Plaintiff and other members sustained damages arising out of the wrongful
23 conduct of Defendant, based upon the same transactions which were uniformly made to
24 Plaintiff and the public.

25 48. **Adequate Representation:** Plaintiff will fairly and adequately represent and protect
26 the interests of the Classes, and has retained counsel competent and experienced in complex
27 class actions. Plaintiff has no interest antagonistic to those of the Classes, and Defendant has
28 no defenses unique to Plaintiff.

1 49. **Predominance and Superiority:** This class action is appropriate for certification
2 because class proceedings are superior to all other available methods for the fair and efficient
3 adjudication of this controversy, since joinder of all members is impracticable. The damages
4 suffered by the individual members of the Classes will likely be relatively small, especially
5 given the burden and expense of individual prosecution of the complex litigation necessitated
6 by the actions of Defendant. It would be virtually impossible for the individual members of
7 the Classes to obtain effective relief from the misconduct of Defendant. Even if members of
8 the Classes themselves could sustain such individual litigation, it would still not be preferable
9 to a class action, because individual litigation would increase the delay and expense to all
10 parties due to the complex legal and factual controversies presented in this Complaint. By
11 contrast, a class action presents far fewer management difficulties and provides the benefits
12 of single adjudication, economy of scale, and comprehensive supervision by a single Court.
13 Economies of time, effort, and expense will be fostered and uniformity of decisions will be
14 ensured.

15 50. **Commonality:** There are many questions of law and fact common to the claims of
16 Plaintiff and the other members of the Classes, and those questions predominate over any
17 questions that may affect individual members of the Classes. Common questions for the
18 Classes include, but are not limited to the following:

- 19 (a) Whether Defendant's conduct described herein violates the False
20 Advertising Law (Cal. Bus. & Prof. Code Sections 17500, *et seq.*), prohibiting
21 deceptive acts or practices in the conduct of any business, trade or commerce
22 or in the furnishing of any service;
- 23 (b) Whether Defendant's conduct described herein violates the Consumers
24 Legal Remedies Act (California Civil Code Sections 1750, *et seq.*),
25 prohibiting the act, use or employment by any person of any deception,
26 deceptive act or practice, fraud, false pretense, false promise,

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misrepresentation, or concealment, suppression or omission of any material fact with intent that others rely upon such concealment, suppression or omission, in connection with the sale or advertisement of any merchandise whether or not any person has in fact been misled, deceived or damaged thereby;

(c) Whether Defendant's conduct described herein violates the Unfair Competition Law (Cal. Bus. & Prof. Code Sections 17200, *et seq.*), which protects both consumers and competitors by promoting fair competition in commercial markets for goods and services and prohibits any unlawful, unfair or fraudulent business act or practice;

(d) Whether Defendant's conduct described herein results in unjust enrichment to Defendant.

(e) Whether Defendant's conduct described herein results in a breach of contract.

COUNT I
Violation of the False Advertising Law
California Business and Professions Code Sections 17500, *et seq.*
(On Behalf of Plaintiff and the Classes)

51. Plaintiff incorporates by reference the foregoing allegations.

52. Cal. Bus. & Prof. Code § 17500 provides that it is unlawful for any corporation to knowingly make, by means of any advertising device or otherwise, any untrue or misleading statement with the intent to sell a product or service, or to induce the public to purchase a product or service. Any statement in advertising that is likely to deceive members of the public constitutes false and misleading advertising under Cal. Bus. & Prof. Code § 17500.

53. As described within, Defendant has disseminated, and continues to disseminate advertising that it knows or should reasonably know is false and misleading. This conduct includes, but it is not limited to, promoting and advertising "work-at-home" products without

1 disclosing the actual price, a material term of any transaction. Defendant actively
2 misrepresents and conceals the actual price(s) consumers are charged when they submit their
3 credit card information.

4 54. By committing the acts alleged in this Complaint, Defendant has knowingly
5 disseminated untrue and/or misleading statements through online advertising in order to sell
6 or induce members of the public to purchase work-at-home products, in violation of Cal.
7 Bus. & Prof. Code § 17500.

8 55. Plaintiff and members of the Classes were all charged monies beyond what they
9 authorized. Accordingly, Plaintiff and members of the Classes have suffered injury in fact
10 and lost money as a result of Defendant's acts of false advertising.

11 56. Plaintiff seek an order requiring Defendant to (1) immediately stop the unlawful
12 practices stated in this Complaint; (2) make full restitution of all funds wrongfully obtained;
13 and (3) pay interest, attorney's fees, and costs pursuant to Cal. Code Civ. Proc. § 1021.5.

14 **COUNT II**

15 **Violation of the Consumers Legal Remedies Act**
16 **California Civil Code Sections 1750, et seq.**
17 **(On Behalf of Plaintiff and the Classes)**

18 57. Plaintiff incorporates by reference the foregoing allegations.

19 58. The Consumers Legal Remedies Act prohibits the act, use or employment by any
20 person of any deception, fraud, false pretense, false promise, misrepresentation, concealment,
21 suppression or omission of any material fact with intent that others rely upon such act in
22 connection with the sale or advertisement of any merchandise whether or not any person has
23 in fact been misled, deceived or damaged thereby.

24 59. As described within, Defendant has engaged in deceptive practices, unlawful methods
25 of competition, and/or unfair acts as defined by Cal. Civ. Code §§ 1750, et seq., to the
26 detriment of Plaintiff and the Classes.
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1 60. Defendant utilizes false and deceptive advertising that both conceals the actual price
2 of the product and widely and willfully misrepresents testimonial support for the product
3 offered.

4 61. Defendant's offers contain unconscionable terms in that they are unfair and
5 inequitable and the material terms of the offers are hidden and actively misrepresented by
6 Defendant.

7 62. Defendant, acting with knowledge, intentionally and unlawfully brought harm upon
8 Plaintiff and the Classes by deceptively inducing the Plaintiff and all members of the Class
9 and SubClass to purchase a product with deceptive and misleading advertisements by failing
10 to clearly and conspicuously disclose the price of the goods and services and by placing
11 unauthorized charges on their credit card accounts. Specifically, Defendant violated Cal.
12 Civ. Code § 1750 in at least the following respects:

13 (a) In violation of § 1770(a)(2) by misrepresenting the source, sponsorship,
14 approval, or certification of Defendant's goods or services;

15 (b) In violation of § 1770(a)(3) by misrepresenting the affiliation, connection,
16 or association with, or certification by, a third party in relation to Defendant's
17 products;

18 (c) In violation of § 1770(a)(9) by advertising Defendant's goods or services
19 with the intent not to sell them as advertised;

20 (d) In violation of § 1770(a)(13) by making false or misleading statements of
21 fact concerning the reasons for, existence of, or amounts of price reductions related
22 to Defendant's good or services;

23 (e) In violation of § 1770(a)(14) by Defendant's acts and omissions in
24 representing that a transaction confers or involves rights, remedies, or obligations
25 which it does not have or involve, or which are prohibited by law;

26 (f) In violation of § 1770(a)(19) by inserting an unconscionable provision in
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1 the offer for Defendant's goods and services;

2 63. Plaintiff and the Classes have suffered harm as a proximate result of the violations of
3 law and wrongful conduct of the Defendant.

4 64. Under Cal. Civ. Code § 1780(a) and (b), Plaintiff and the Classes seek injunctive
5 relief requiring Defendant to cease and desist the illegal conduct stated in this Complaint, and
6 any other appropriate remedy for violations of the CLRA. For the sake of clarity, Plaintiff
7 explicitly disclaims any claim for damages under the CLRA at this time.

8 **COUNT III**
9 **Violation of the Unfair Competition Law**
10 **California Business and Professions Code Sections 17200, et seq.**
11 **(On Behalf of Plaintiff and the Classes)**

12 65. Plaintiff incorporates by reference the foregoing allegations.

13 66. California's Unfair Competition Law ("UCL"), Cal. Bus. & Prof. Code § 17200, *et*
14 *seq.*, protects both consumers and competitors by promoting fair competition in commercial
15 markets for goods and services.

16 67. The UCL prohibits any unlawful, unfair or fraudulent business act or practice. A
17 business practice need only meet one of the three criteria to be considered unfair competition.
18 An unlawful business practice is anything that can properly be called a business practice and
19 that at the same time is forbidden by law. A fraudulent business practice is one in which
20 members of the public are likely to be deceived.

21 68. As described within, Defendant's continued utilization of unlawful and
22 unconscionable marketing practices, and the continuing practice of charging consumers
23 credit cards without authorization, constitutes an unlawful and unfair business practice in
24 violation of Cal. Bus. & Prof. Code §§ 17200, *et seq.*

25 69. In deceiving Plaintiff and the Classes by creating and supporting advertising that fails
26 to clearly and conspicuously disclose the actual price of its products, and inducing Plaintiff
27 and members of the Class and SubClass to proffer payment information based on that

1 misrepresentation, Defendant has engaged in deceptive trade practices in violation of Cal.
2 Bus. & Prof. Code §§ 17200, *et seq.*

3 70. The price of a consumer product is a material term of any transaction because it is
4 likely to affect a consumer's choice of, or conduct regarding, whether to purchase a product.
5 Any deception related to the price of a consumer product is materially misleading.

6 71. Defendant's misrepresentation of the price of its products is likely to mislead a
7 reasonable consumer who is acting reasonably under the circumstances.

8 72. Defendant has violated the "unfair" prong of the UCL in that its actions caused
9 substantial injury to consumers by charging their credit cards without their consent after
10 inducing them to submit their information through deceptive marketing. The injury caused
11 by Defendant's conduct is not outweighed by any countervailing benefits to consumers or
12 competition, and the injury is one that consumers themselves could not reasonably have
13 avoided.

14 73. Defendant has violated the "fraudulent" prong of the UCL in that its statements,
15 advertisements, and representations regarding what consumers would be charged for its
16 products are false and likely to deceive a reasonable consumer.

17 74. Defendant has violated the "unlawful" prong of the UCL in that Defendant's conduct
18 violated the Consumer Legal Remedies Act (Cal. Bus. & Prof. Code § 1750 *et seq.*) and the
19 False Advertising Law (Cal. Bus. & Prof. Code § 17500 *et seq.*).

20 75. Plaintiff and the Classes have suffered harm as a proximate result of the violations of
21 law and wrongful conduct of Defendant.

22 76. Pursuant to Cal. Bus. & Prof. Code § 17203, Plaintiff seeks an order of this Court
23 permanently enjoining Defendant from continuing to engage in unfair and unlawful conduct.

24 77. Plaintiff seeks an order requiring Defendant to (1) immediately stop the unlawful
25 practices stated in this Complaint; (2) make full restitution of all funds wrongfully obtained;
26 and (3) pay interest, attorney's fees, and costs pursuant to Cal. Code Civ. Proc. § 1021.5.

27

28

Complaint

COUNT IV
Restitution/Unjust Enrichment
(On Behalf of the Plaintiff and the Classes)

1
2 78. Plaintiff incorporates by reference the foregoing allegations.

3
4 79. Plaintiff and members of the Class and SubClass conferred a monetary benefit on
5 Defendant. Defendant has received and retained money belonging to Plaintiff and the
6 Classes resulting from substantial and unauthorized charges placed on their credit card bills
7 by Pacific WebWorks. Defendant profits from each individual purchase made by a consumer
8 after being directed to Pacific WebWorks's transaction pages.

9 80. Defendant appreciates or has knowledge of such benefit.

10 81. Under principles of equity and good conscience, Defendant should not be permitted
11 to retain the money belonging to Plaintiff and members of the Classes, which Defendant has
12 unjustly received as a result of its unlawful actions.

13 82. Plaintiff and other members of the Classes suffered damages as a direct result of
14 Defendant's conduct.

15 83. Plaintiff, on her own behalf, and on behalf of the Classes, seeks restitution for
16 Defendant's unlawful conduct, as well as interest and attorney's fees and costs.

COUNT V
Breach of Contract
(On Behalf of Plaintiff and the Pacific WebWorks Class)

17
18
19 84. Plaintiff incorporates by reference the foregoing allegations.

20 85. In reliance upon Defendants' misrepresentations and deceptive advertising, Plaintiff
21 entered into a contract to receive a product from Pacific WebWorks at a genuinely
22 discounted price, or for the cost of shipping and handling only. Because of these deceptive
23 misrepresentations, Plaintiff and the Pacific WebWorks Class entered their credit card
24 information with the understanding that they would only be charged a genuinely discounted
25 price or the cost of shipping and handling in exchange for a product from Pacific WebWorks.

26 86. By cramming additional undisclosed charges on the credit/debit cards of Plaintiff and
27 the members of the Pacific WebWorks Class, Pacific WebWorks breached the contract for

COUNT IV
Restitution/Unjust Enrichment
(On Behalf of the Plaintiff and the Classes)

1
2 78. Plaintiff incorporates by reference the foregoing allegations.

3
4 79. Plaintiff and members of the Class and SubClass conferred a monetary benefit on
5 Defendant. Defendant has received and retained money belonging to Plaintiff and the
6 Classes resulting from substantial and unauthorized charges placed on their credit card bills
7 by Pacific WebWorks. Defendant profits from each individual purchase made by a consumer
8 after being directed to Pacific WebWorks's transaction pages.

9 80. Defendant appreciates or has knowledge of such benefit.

10 81. Under principles of equity and good conscience, Defendant should not be permitted
11 to retain the money belonging to Plaintiff and members of the Classes, which Defendant has
12 unjustly received as a result of its unlawful actions.

13 82. Plaintiff and other members of the Classes suffered damages as a direct result of
14 Defendant's conduct.

15 83. Plaintiff, on her own behalf, and on behalf of the Classes, seeks restitution for
16 Defendant's unlawful conduct, as well as interest and attorney's fees and costs.

COUNT V
Breach of Contract
(On Behalf of Plaintiff and the Pacific WebWorks Class)

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18
19 84. Plaintiff incorporates by reference the foregoing allegations.

20 85. In reliance upon Defendants' misrepresentations and deceptive advertising, Plaintiff
21 entered into a contract to receive a product from Pacific WebWorks at a genuinely
22 discounted price, or for the cost of shipping and handling only. Because of these deceptive
23 misrepresentations, Plaintiff and the Pacific WebWorks Class entered their credit card
24 information with the understanding that they would only be charged a genuinely discounted
25 price or the cost of shipping and handling in exchange for a product from Pacific WebWorks.

26 86. By cramming additional undisclosed charges on the credit/debit cards of Plaintiff and
27 the members of the Pacific WebWorks Class, Pacific WebWorks breached the contract for

1 the purchase of a product at the clearly disclosed price described above. Plaintiff and the
2 members of the Pacific WebWorks Class did not assent to any additional charges and did not
3 reasonably expect that the contract for purchase and sale would include such additional
4 charges.

5 87. At all times relevant to this action, Pacific WebWorks acted willfully and with the
6 intent to breach the contracts they entered into with Plaintiff and the Pacific WebWorks
7 Class.

8 88. Plaintiff and the Pacific WebWorks Class have suffered damages as a direct result of
9 Pacific WebWorks's acts and practices in the form of monies paid and lost.

10 89. Plaintiff, on her own behalf, and on behalf of the Pacific WebWorks Class, seek
11 damages for Defendant's breach of contract, as well as interest and attorney's fees and costs
12 pursuant to Cal. Code Civ. Proc. § 1021.5.

13

14 **WHEREFORE**, Plaintiff Deanna Pelletier on behalf of herself and members of the Class
15 and SubClass, pray for the following relief:

16 a. Certify this case as a class action on behalf of the Class and SubClass as
17 defined above and appoint Deanna Pelletier as class representative and undersigned counsel
18 as lead counsel of this class action;

19 b. Enter judgment against Pacific WebWorks and John Doe Defendant, Inc. for
20 all monetary, actual, consequential, and compensatory damages caused by its unlawful
21 conduct;

22 c. Award Plaintiff and the Classes civil penalties and/or punitive damages for
23 violations of the above-cited statutes and law. (For the sake of clarity, Plaintiff explicitly
24 disclaims any claim for damages under the CLRA at this time.)

25 d. Award Plaintiff and the Classes reasonable costs and attorneys' fees;

26 e. Award Plaintiff and the Classes pre- and post-judgment interest;

27

28

- 1 f. Enter judgment for injunctive, statutory and/or declaratory relief as is
2 necessary to protect the interests of Plaintiff and the Classes; and,
3 g. Award such other and further relief as equity and justice may require.
4

5 **JURY DEMAND**

6 Plaintiff requests trial by jury of all claims that can be so tried.
7

8
9 Dated: November 12, 2009

KAMBEREDELSON, LLP
By: 

10
11 Alan Himmelfarb
12 One of the Attorneys for DEANNA
13 PELLETIER, individually and on behalf
14 of a class of similarly situated individuals

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