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No.
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

Between

ALISHA MUNSON

PLAINTIFF

and

LEON'S FURNITURE LIMITED

DEFENDANT

Brought under the *Class Proceedings Act*, RSBC 1996, c 50

NOTICE OF CIVIL CLAIM

This action has been started by the plaintiff for the relief set out in Part 2 below.

If you intend to respond to this action, you or your lawyer must

- (a) file a response to civil claim in Form 2 in the above-named registry of this court within the time for response to civil claim described below, and
- (b) serve a copy of the filed response to civil claim on the plaintiff.

If you intend to make a counterclaim, you or your lawyer must

- (a) file a response to civil claim in Form 2 and a counterclaim in Form 3 in the above-named registry of this court within the time for response to civil claim described below, and
- (b) serve a copy of the filed response to civil claim and counterclaim on the plaintiff and on any new parties named in the counterclaim.

JUDGMENT MAY BE PRONOUNCED AGAINST YOU IF YOU FAIL to file the response to civil claim within the time for response to civil claim described below.

Time for response to civil claim

A response to civil claim must be filed and served on the plaintiff,

- (a) if you reside anywhere in Canada, within 21 days after the date on which a copy of the filed notice of civil claim was served on you,
- (b) if you reside in the United States of America, within 35 days after the date on which a copy of the filed notice of civil claim was served on you,
- (c) if you reside elsewhere, within 49 days after the date on which a copy of the filed notice of civil claim was served on you, or
- (d) if the time for response to civil claim has been set by order of the court, within that time.

THE PLAINTIFF'S CLAIM

Part 1: STATEMENT OF FACTS

Overview

1. Online homeware retailer Leon's uses purported discounts to entice Canadians to purchase furniture, appliances, electronics, and other homeware products by misrepresenting the undiscounted price and value of these products. Leon's represents that its Homeware Products are usually offered for sale at a listed price and are being offered at a steep discount, often for a limited time. The truth is that Leon's rarely, if ever, offer to sell its Homeware Products at that undiscounted price. Instead, they always – or almost always - offer and sell their Homeware Products at the so-called discount price. Consumers are deceived into believing that the product they purchased is ordinarily offered at a higher price and has more value than it actually does.

2. Leon's systemic deception of the Canadian marketplace breaches the *Competition Act*, RSC 1985, c C-34 (the "**Competition Act**"), the *Business Practices and Consumer Protection Act*, SBC 2004, c 2 (the "**BPCPA**") and related enactments in other provinces, and unjustly enriches Leon's. Through this lawsuit, Canadians who were subject to these unlawful pricing practices seek to hold Leon's to account.

The Plaintiff and Class Members

3. The Plaintiff, Alisha Munson, is a resident of British Columbia. On or about February 11, 2023, the Plaintiff purchased a "Turner Lift-Top Coffee Table – Walnut" through <https://www.leons.ca/> for personal use at a discounted price.

4. The Plaintiff brings this action on her own behalf and on behalf of a class of:

all individual and legal persons in Canada who purchased one or more products through <https://www.leons.ca/> and/or <https://www.furniture.ca/> at a Discount Price, including a subclass of individuals who purchased one or more such product for primarily personal, family, or household use (the "**Consumer Subclass**" and

“**Consumer Subclass Members**”) from the date Leon’s began offering products for sale online in Canada until the date this action is certified as a class proceeding, (the “**Class**”, the “**Class Members**” and the “**Class Period**”).

The Defendant

5. The Defendant Leon’s Furniture Limited (“**Leon’s**”) is an online and brick-and-mortar homeware retailer. Leon’s is incorporated pursuant to the laws of Ontario with an address for service at Suite 2400, 745 Thurlow Street, Vancouver, British Columbia, V6E 0C5. Leon’s carries on business in British Columbia and throughout Canada by offering furniture, appliances, electronics, and other homeware products for sale through its Canadian websites at <https://www.leons.ca/> and <https://www.furniture.ca/>.

Leon’s Representations Regarding the Price of Homeware Products

6. Leon’s offers a variety of furniture, appliances, electronics, and other homeware products on its websites. Products offered for sale on <https://www.leons.ca/> and <https://www.furniture.ca/> are the “**Homeware Products**”.

7. Leon’s represents a Discount Price and a Regular Price Homeware Products offered for sale on its websites.

8. The “**Discount Price**” is the price at which Leon’s offers the Homeware Products for sale to customers.

9. The “**Regular Price**” is the alleged undiscounted market price at which Leon’s claims the Homeware Products are ordinarily offered for sale. The Regular Price always exceeds the Discount Price. To indicate that the Homeware Products are not being offered at the Regular Price, the Regular Price is struck through with a line in sales representations.

10. The Regular Price is equivalent to the “**Ordinary Selling Price**” (also known as the “**OSP**”), a term employed by Canada’s Competition Bureau to denote the price at which products are regularly sold and/or offered for sale.

11. The “Discount Value” is the amount by which the Regular Price exceeds the Discount Price. The Discount Value is the amount that Leon’s represents customers will save by purchasing one of the Homeware Products at the Discount Price compared to purchasing one of the Homeware Products at the Regular Price.

Leon’s Websites

12. Leon’s represents a Discount Price and a Regular Price for Homeware Products offered for sale on <https://www.leons.ca/> and <https://www.furniture.ca/>.

<https://www.leons.ca/>

13. Below is an image of a Homeware Product for sale on <https://www.leons.ca/>. The Discount Price (\$499.00) and the Regular Price (\$1,199.00) are each displayed. The red and blue boxes were added to this Notice of Civil Claim to highlight Leon’s pricing information.



The Discount Price (“\$499.00” in red box) and the Regular Price (“\$1,199.00” in blue box) are each displayed once.

14. When a customer clicks on the Homeware Product, they are brought to that specific product's webpage. The Discount Price and the Regular Price are each shown again on this webpage.

Home > Furniture > Living Room > Sofas

Anthena Polyester Sofa - Charcoal

★★★★★ 121 Reviews [Write a Review](#)

SKU: 23739880 **SALE**

Local Delivery Available - [Details](#)

Why Wait? Shop Confidently with our Holiday Price Guarantee!
[Learn More](#)

\$499.00 OR **\$20.79**
~~\$1,199.00~~
+ taxes/fees
With 24 month financing
[View Plans](#)

ADD TO CART [View Wishlist](#)

DELIVERY TO V7Y
Estimated Delivery Dec 23rd, 2024


[PICK UP OR VIEW IN-STORE](#)

The Discount Price (“\$499.00” in red box) and the Regular Price (“\$1,199.00” in blue box) are each displayed once.

15. When the customer selects “ADD TO CART”, a screen pops up prompting the customer to “Proceed to Cart” or to “Continue Shopping”. After clicking “Proceed to Cart” and entering their postal code for delivery, the customer is taken to a webpage titled “Shopping Cart” where Leon’s again represents the Discount Price and the Regular Price.

Home > Shopping Cart

Shopping Cart

Product	Price	Quantity	Total
 Anthena Polyester Sofa - Charcoal SKU: #23739880	\$1,199.00 \$499.00 Sale	- 1 + Remove Item	\$499.00

Costs based on

Subtotal: **\$499.00**

Pick Up: Free
OR
Delivery: \$50.00

Estimated Tax: \$65.88

Estimated Total: \$614.88

**If you have a promo code you may apply it at checkout.

Delivery to V6B6M2
Estimated Delivery Dec 23rd, 2024

Pickup:
Estimated Pick Up Dec 23rd, 2024

Warranty

The Discount Price (“\$499.00” in red box) is displayed three times and the Regular Price (“\$1,199.00” in blue box) is displayed once.

16. After clicking “Secure Checkout” lower on the webpage, the customer is taken to a different webpage, the checkout page, where the Discount Price is again displayed.

Contact [Log in](#)

Email


Missing a valid contact method.

Email me with news and offers

Select Delivery or Pickup

Delivery

Pickup

 **Anthena Polyester Sofa - Charcoal** **\$499.00**
ZOP

Subtotal • 1 item **\$499.00**

Delivery/Pickup \$50.00

Handling Fee \$0.00

Estimated taxes ⓘ \$65.88

Total CAD **\$614.88**

The Discount Price (“\$499.00” in red box) is displayed twice.

17. In total, Leon's represents the Discount Price three times and the Regular Price seven times before the purchase is made.

<https://www.furniture.ca/>

18. Below is an image of a Homeware Product for sale on <https://www.furniture.ca/>. The Discount Price (\$899.00) and the Regular Price (\$1,499.00) are each displayed. The red and blue boxes were added to this Notice of Civil Claim to highlight Leon's pricing information.



The Discount Price ("899.00" in red box) and the Regular Price ("1,499.00" in blue box) are each displayed once.

19. When a customer clicks on the Homeware Product, they are brought to that specific product's webpage. The Discount Price and the Regular Price are each shown again on this webpage.



Search



[Furniture](#) [Bedding & Décor](#) [Mattresses](#) [Appliances & Electronics](#) [Outdoor](#) [Ways to Shop](#) **SALE**

[Home](#) > [Furniture](#) > [Living Room](#) > [Recliners](#)



Langsdale Glider Recliner- Mocha

[Write a Review](#)

\$ 899.00 Was ~~\$ 1,499.00~~



\$37.46 / month + taxes/fees
With 24 month financing

+ View Available FlexiCard Plans

Free Delivery On Orders of \$799 or more before taxes -

[Learn More](#)

30 Day Price Match Promise - [Learn More](#)



ADD TO CART

- 1 +

SKU: 43H70052




Wishlist (0)


The Discount Price (“\$899.00” in red box) and the Regular Price (“Was \$1,499.00” in blue box) are each displayed once.

20. When the customer selects “ADD TO CART”, a screen pops up prompting the customer to “Proceed to Cart” or to “Continue Shopping”. After clicking “Proceed to Cart” and entering their postal code for delivery, the customer is taken to a webpage titled “Shopping Cart” where Leon’s again represents the Discount Price and the Regular Price.

POSTAL CODE: V6B6M2 Register Sign In 1-844-733-5361 Chat **CART** 1


 Search

Furniture Bedding & Décor Mattresses Appliances & Electronics Outdoor Ways to Shop **SALE**

 Congratulations! Your order qualifies for Free Delivery.

Home > Shopping Cart


Shopping Cart

Photo	Name	Price	Quantity	Total
	LANGSDALE GLIDER RECLINER-MOCHA Remove Item	\$ 899.00	- 1 +	\$ 899.00

[Continue to Checkout](#)

COSTS BASED ON [REDACTED]

Subtotal:	\$ 899.00
Delivery:	Free
Estimated Tax:	\$ 107.88
Estimated Total:	\$ 1,006.88

[Questions? Ask Us!](#) 

The Discount Price (“\$899.00” in red box) is displayed three times.

21. After clicking “Continue to Checkout”, the customer is taken to a different webpage, the checkout page, where the Discount Price is again displayed.

Contact [Log in](#)

Email

Missing a valid contact method.

Email me with news and offers

Delivery

Country/Region
Canada

Langsdale Glider Recliner- Mocha ZOP **\$899.00**

Discount code

Subtotal	\$899.00
Shipping	FREE
Estimated taxes ⓘ	\$107.88
Total	CAD \$1,006.88

The Discount Price (“\$899.00” in red box) is displayed twice.

22. In total, Leon’s represents the Discount Price twice and the Regular Price seven times before the purchase is made.

Leon’s Misrepresents the Value of its Homeware Products

23. The Regular Price is a false and misleading representation of the price at which the Homeware Products are regularly offered for sale. As a result, the Discount Value represented to customers purchasing the Homeware Products at the Discount Price is illusory.

24. At material times, the Homeware Products were offered for sale at the Regular Price far less than 50% of the time. Because the Homeware Products are offered for sale at the Regular Price so infrequently, the significant majority of sales volume is at the Discount Price.

25. Accordingly, the Regular Price is a misleading and deceptive representation of the price that Leon’s ordinarily charges for the Homeware Products.

The Defendant’s Misconduct

26. At all material times, Leon’s designed, manufactured, marketed, sold, distributed and/or placed the Homeware Products into the stream of commerce.

27. At all material times, Leon's represented, expressly or by implication, that the Regular Price of the Homeware Products was the price at which Leon's regularly offered to sell the Homeware Products.

28. At all material times, Leon's rarely, if ever, offered the Homeware Products for sale at a price equal to the Regular Price.

29. At all material times, Leon's represented, expressly or by implication, that purchasers would obtain a benefit, in the form and quantity of the Discount Value, by purchasing the Homeware Products at the Discount Price.

30. At all material times, the benefit in the form and quantity of the Discount Value did not exist or was substantially less than the Discount Value. At all material times Leon's knew or ought reasonably to have known this to be the case.

31. At all material times, Leon's knew or ought reasonably to have known that it rarely, if ever, offered to sell the Homeware Products at a price equal to the Regular Price.

32. Leon's knowingly or recklessly misled customers as to the Regular Price of the Homeware Products and the Discount Value that they would obtain by purchasing the Homeware Products.

33. At all material times, Leon's exercised total control over the pricing of the Homeware Products (including the Discount Price and the Regular Price) and how they represented this information to the Plaintiff and Class Members.

34. At all material times, there existed a cognitive asymmetry between Leon's and the Plaintiff and Class Members as to how the pricing of the Homeware Products (including the Discount Price and the Regular Price) was calculated.

35. At all material times, the reasonable expectations of the Plaintiff and Class Members regarding the Homeware Products included, *inter alia*, that:

a) the Regular Price represented by Leon's was an accurate reflection of:

- i. the value of the Homeware Products; and/or
 - ii. the price at which the Homeware Products were regularly offered for sale;
- b) they would receive a product with a true market value at or near the Regular Price; and/or
 - c) they would accrue savings equal to the Discount Value by purchasing the Homeware Products at the Discount Price as opposed to purchasing the same products for the price at which Leon's ordinarily offered them for sale.

36. At all material times, and contrary to the reasonable expectations of the Plaintiff and Class Members, the material terms and conditions of the bargain for the Homeware Products included, *inter alia*:

- a) the Homeware Products were ordinarily offered for sale at the Discount Price; and/or
- b) purchasing the Homeware Products at the Discount Price did not provide a benefit in the form and quantity of the Discount Value.

37. At all material times, the terms and conditions of the bargain for the Homeware Products purchased at the Discount Price violated the reasonable expectations of the Plaintiff and Class Members.

38. The Plaintiff and Class Members reasonably relied on the Discount Price, the Regular Price, and/or the Discount Value of the Homeware Products as being accurate valuations of each of those represented price elements in deciding to purchase the Homeware Products.

39. The Plaintiff and Class Members would have paid a lower price for the Homeware Products had they been aware that the Regular Price was not an accurate valuation of the undiscounted selling price of the Homeware Products and/or that they would not obtain a benefit equal to the Discount Value.

40. Leon's obtained a portion, or all, of the purchase price paid by the Plaintiff and Class Members for the Homeware Products as a result of Leon's breaches of the *Competition Act*, the *BPCPA*, and/or related provincial consumer protection legislation.

41. The Plaintiff and Class Members were the source of the money acquired by Leon's, in the form and quantity of some, or all, of the purchase price paid by them for the Homeware Products.

42. The Plaintiff and Class Members each have an interest in some, or all, of the funds received from them by Leon's, either directly or indirectly, for the Homeware Products.

43. The Plaintiff has sent a letter to Leon's advising therein that Consumer Subclass Members in Ontario, Prince Edward Island, and Alberta seek damages, repayment, restitution, and/or punitive damages pursuant to the *Consumer Protection Act (2002)*, SO 2002, c 30, Sched. A (the "**Ontario CPA**"), the *Business Practices Act*, RSPEI 1988, c B-7 (the "**PEI BPA**"), and the *Consumer Protection Act*, RSA 2000, c C-26.3 (the "**Alberta CPA**"), respectively, due to Leon's misconduct particularized in this Notice of Civil Claim. This notice was sent on behalf of Consumer Subclass Members in Ontario, Prince Edward Island, and Alberta. In the alternative, the notice requirements in the *Ontario CPA*, *PEI BPA*, and *Alberta CPA* are fulfilled by the filing of this Notice of Civil Claim. In the further alternative, the interests of justice warrant dispensing of the notice requirement for Consumer Subclass Members in Ontario, Alberta, and PEI.

44. Leon's offered the Homeware Products for sale at the Discount Price, and the Plaintiff and Class Members accepted Leon's offers by paying the Discount Price for the Homeware Products.

45. Leon's has been enriched by the receipt of the purchase price paid by the Plaintiff and Class Members for the Homeware Products. The Plaintiff and Class Members have been correspondingly deprived of the purchase price paid to Leon's for the Homeware Products.

Harm to the Plaintiff and Class Members

46. As a result of Leon's breaches of the *Competition Act* and/or the *BPCPA* and related enactments, the Plaintiff and Class Members have suffered loss and/or damage. Leon's misrepresentations have caused the Plaintiff and Class Members to acquire less value than they expected to acquire when purchasing the Homeware Products and/or pay a greater price for the Homeware Products than they would have paid had Leon's not misrepresented the Discount Price, the Regular Price, and/or the Discount Value of the Homeware Products.

47. Further, Leon's has been unjustly enriched by the receipt of the purchase price paid by the Plaintiff and Class Members for the Homeware Products, and the Plaintiff and Class Members have suffered a corresponding deprivation. Since payments were made as a result of Leon's wrongful acts described herein, there is no juristic reason for Leon's to retain the payments. The Plaintiff and Class Members are entitled to claim and recover, based on equitable and restitutionary principles, the amount received directly or indirectly by Leon's equal to the corresponding deprivation of the Plaintiff and Class Members.

48. All amounts payable to the Class on account of damages and disgorgements should be calculated on an aggregate basis pursuant to section 29 of the *Class Proceedings Act*, RSBC 1996, c 50 (the "***Class Proceedings Act***"), or otherwise.

Part 2: RELIEF SOUGHT

49. The Plaintiff claims, on her own behalf and on behalf of the Class Members:
- a) an order certifying this action as a class proceeding and appointing her as representative plaintiff under the *Class Proceedings Act*;
 - b) a declaration that Leon's has engaged in conduct contrary to Part VI of the *Competition Act*;
 - c) damages pursuant to section 36 of the *Competition Act*;

- d) costs of investigation and prosecution of this proceeding pursuant to section 36 of the *Competition Act*;
- e) a declaration under section 172(1)(a) of the *BPCPA* that Leon's has breached sections 4-5 and/or 8-9 of the *BPCPA*;
- f) an injunction under section 172(1)(b) of the *BPCPA* to restrain further breaches of the *BPCPA* in Leon's pricing practices by requiring that Leon's represent an accurate undiscounted value and discount value for the Homeware Products;
- g) a restoration order under section 172(3)(a) of the *BPCPA* in an amount equal to some, or all, of the price paid by the Plaintiff and Consumer Subclass Members in British Columbia to Leon's for the Homeware Products;
- h) damages under to section 171 of the *BPCPA*;
- i) relief for contraventions of extra-provincial consumer protection legislation (collectively with the *BPCPA*, the "**Consumer Protection Legislation**"), as follows:
 - i. restitution, or in the alternative damages, as well as punitive damages, pursuant to subsections 7(1), 7(3), 7.2(1), 13(2), and/or 142.1(2) of the *Alberta CPA*;
 - ii. restitution, or in the alternative damages, as well as punitive damages, pursuant to subsection 93(1) of *The Consumer Protection and Business Practices Act*, SS 2014, c C-30.2;
 - iii. repayment, or in the alternative damages, as well as punitive damages, pursuant to subsections 23(2) and/or 23(4) of *The Business Practices Act*, CCSM, c B120;
 - iv. reduction of some, or all, of the consumer's obligations, compensatory damages, and/or repayment, as well as punitive

damages, pursuant to section 272 of the *Consumer Protection Act*, CQLR c P-40.1;

v. restitution, or in the alternative damages and/or repayment, as well as punitive damages, pursuant to subsections 18(1), 18(2), and/or 18(11) of the *Ontario CPA*;

vi. restitution, or in the alternative damages and/or repayment, as well as punitive damages, pursuant to subsections 4(1) and/or 4(2) of the *PEI BPA*;

vii. damages and punitive damages pursuant to section 10 of the *Consumer Protection and Business Practices Act*, SNL 2009, c C-31.1;

j) punitive damages;

k) a declaration that Leon's has been unjustly enriched by the receipt of payment for the Homeware Products and an order that Leon's account for and make restitution to the Class Members in an amount equal to the price paid by the Plaintiff and Class Members to Leon's for the Homeware Products, or alternatively disgorgement;

l) pre-judgement and post-judgement interest under the *Court Order Interest Act*, RSBC 1996, c 79 (the "**Court Order Interest Act**"); and

m) such further and other relief as this Honourable Court may deem just.

Part 3: LEGAL BASIS

50. The Plaintiff and Class Members plead and rely on the *Competition Act*, the Consumer Protection Legislation, the *Class Proceedings Act*, the *Limitation Act*, SBC 2012, c 13, the *Limitation Act*, RSBC 1996, c 266, the *Court Order Interest Act*, the *Court Jurisdiction and Proceedings Transfer Act*, SBC 2003, c 28 (the "**Court Jurisdiction and Proceedings Transfer Act**"), the Supreme Court Civil Rules, and related enactments.

Breaches of the Competition Act

51. The *Competition Act* applies to business transacted in Canada.

52. Leon's has breached section 52 of the *Competition Act*, as amended from time to time. The Homeware Products are each a "product" within the meaning of sections 2 and 52 of the *Competition Act*.

53. Leon's representations as to the Discount Price, the Regular Price, and/or the Discount Value of the Homeware Products when Leon's knew or was reckless or willfully blind to the fact that the Homeware Products were rarely, if ever, offered at a price equaling the Regular Price is in breach of section 52(1) of the *Competition Act*. In particular, Leon's breached section 52(1) of the *Competition Act* by representing that:

- a) the Homeware Products were worth an amount equal or approximate to the Regular Price when the Homeware Products were worth less than the Regular Price;
- b) the Homeware Products were ordinarily offered for sale at a price equal or approximate to the Regular Price when these products were rarely, if ever, offered for sale at a price equal or approximate to the Regular Price; and/or
- c) the Plaintiff and Class Members would acquire a benefit (equal to the Discount Value) by purchasing the Homeware Products at the Discount Price when the benefit obtained by purchasing these products at the Discount Price was less than the Discount Value.

54. This conduct was done for the purpose of promoting, directly or indirectly, the supply or use of the Homeware Products and/or for the purpose of promoting, directly or indirectly, Leon's business interests in attracting customers to purchase the Homeware Products from them.

55. The Discount Price, the Regular Price, and/or the Discount Value of the Homeware Products were represented on a point-of-purchase display or was otherwise made available to members of the public.

56. As a result of Leon's breaches of section 52 of the *Competition Act*, the Plaintiff and Class Members acquired a product, namely the Homeware Products, which had less value than the Plaintiff and Class Members expected. Further or in the alternative, as a result of Leon's breaches of section 52 of the *Competition Act*, the Plaintiff and Class Members paid a greater price for the Homeware Products than they would have paid had Leon's not misrepresented the Discount Price, the Regular Price, and/or the Discount Value of the Homeware Products.

Breaches of the Business Practices and Consumer Protection Act

57. Leon's has breached the *BPCPA*.

58. The Plaintiff and Consumer Subclass Members in British Columbia are "consumers" within the meaning of section 1 of the *BPCPA*. The Homeware Products are "goods" within the meaning of section 1 of the *BPCPA*. Leon's is a "supplier" within the meaning of section 1 of the *BPCPA*. The sale and supply of the Homeware Products in British Columbia is a "consumer transaction" within the meaning of section 1 of the *BPCPA*.

Breaches of Sections 4-5

59. By the conduct set out herein, Leon's has breached sections 4-5 of the *BPCPA*. Leon's actions constitute deceptive acts or practices.

60. Section 5 of the *BPCPA* prohibits suppliers from engaging in deceptive acts or practices in respect of consumer transactions. Once it is alleged that a supplier committed or engaged in a deceptive act or practice, the burden of proof that the deceptive act or practice was not committed or engaged in is on the supplier.

61. In the marketing and supply of the Homeware Products, Leon's engaged in conduct contrary to, *inter alia*, subsections 4(3)(a)(ii), 4(3)(b)(vi), and/or 4(3)(c)(i) of the *BPCPA* by representing that:

- a) the Homeware Products were worth an amount equal or approximate to the Regular Price when the Homeware Products were worth less than the Regular Price;
- b) the Homeware Products were ordinarily offered for sale at a price equal or approximate to the Regular Price when these products were rarely, if ever, offered for sale at a price equal or approximate to the Regular Price; and/or
- c) the Plaintiff and Class Members would acquire a benefit (equal to the Discount Value) by purchasing the Homeware Products at the Discount Price when the benefit obtained by purchasing these products at the Discount Price was less than the Discount Value.

62. Leon's conduct breached sections 4-5 of the *BPCPA* regardless of whether Leon's conduct was contrary to any of the factors enumerated under subsection 4(3) as their conduct had the capability, tendency or effect of deceiving or misleading the Plaintiff and Consumer Subclass Members in British Columbia.

Breaches of Sections 8-9

63. By the conduct set out herein, Leon's has breached sections 8-9 of the *BPCPA*. Leon's actions constitute unconscionable acts or practices.

64. Section 9 of the *BPCPA* prohibits suppliers from engaging in unconscionable acts or practices in respect of consumer transactions. Once it is alleged that a supplier committed or engaged in an unconscionable act or practice, the burden of proof that the unconscionable act or practice was not committed or engaged in is on the supplier.

65. That the above-described conduct constitutes an unconscionable act or practice is informed by the circumstances enumerated under section 8(3) of the *BPCPA*, and in particular subsections 8(3)(b) and/or (e). However, Leon's conduct breached sections 8-9 of the *BPCPA* regardless of whether it was contrary to any of the factors enumerated under subsection 8(3).

66. Through their total control over the pricing of the Homeware Products (including the Discount Price, the Regular Price, and/or the Discount Value) and how this information was represented to the Plaintiff and Consumer Subclass Members in British Columbia, Leon's misled consumers as to the actual value of, and benefit they would obtain by purchasing, the Homeware Products. Leon's total control over the pricing of the Homeware Products and how they represented this information created a cognitive asymmetry whereby the Plaintiff and Consumer Subclass Members in British Columbia could not understand or appreciate important terms and conditions of the bargain for the Homeware Products, namely that:

- a) the Homeware Products were ordinarily offered for sale at the Discount Price; and/or
- b) purchasing the Homeware Products at the Discount Price did not provide a benefit in the form and quantity of the Discount Value.

67. These terms and conditions of the bargains between Leon's and Consumer Subclass Members were inequitable and/or excessive because they violated the reasonable expectations of the Consumer Subclass Members in British Columbia, including, *inter alia*, that:

- a) the Regular Price represented by Leon's was an accurate reflection of:
 - i. the value of the Homeware Products; and/or
 - ii. the price at which the Homeware Products were regularly offered for sale;
- b) they would receive a product with a true market value at or near the Regular Price; and/or
- c) they would accrue savings equal to the Discount Value by purchasing the Homeware Products at the Discount Price as opposed to purchasing the same products for the price at which Leon's ordinarily offered them for sale.

68. The Plaintiff and Consumer Subclass Members in British Columbia have been unduly disadvantaged by these inequitable and/or excessive terms and conditions of the bargain for the Homeware Products as a result of acquiring less value than they expected to receive when they purchased the Homeware Products and/or paying a greater price for the Homeware Products than they would have had they understood and appreciated these terms and conditions. Leon's was unduly advantaged through the receipt of more monies than they would have obtained from the Plaintiff and Consumer Subclass Members in British Columbia had they not engaged in the conduct described herein.

69. The cognitive asymmetry resulting from Leon's total control of the pricing of the Homeware Products and how they represented this information amounted to an inequality of bargaining power which created the potential for Leon's to receive an undue advantage, and for the Plaintiff and Consumer Subclass Members in British Columbia to be unduly disadvantaged. This potential was realized when Leon's leveraged the cognitive asymmetry between the parties and misrepresented the estimated value and the benefit that the Plaintiff and Consumer Subclass Members would obtain from purchasing the Homeware Products. These misrepresentations, the falsehood of which the Plaintiff and Consumer Subclass Members in British Columbia were ignorant to as a result of the cognitive asymmetry, resulted in the bargain for the Homeware Products being improvident. Leon's has therefore committed an unconscionable act or practice.

Remedies for Breaches of the *BPCPA*

70. As a result of Leon's breaches of section 4-5 and/or 8-9 of the *BPCPA*, the Plaintiff and Consumer Subclass Members in British Columbia acquired less value than they expected to acquire when purchasing the Homeware Products and/or paid a greater price for the Homeware Products than they would have paid had Leon's not misrepresented the Discount Price, the Regular Price, and/or the Discount Value of the Homeware Products.

71. The Plaintiff and Consumer Subclass Members in British Columbia have an interest in, and were the source of, the funds received from them by Leon's for the

Homeware Products obtained due to a breach or breaches of sections 4-5 and/or 8-9 of the *BPCPA*.

72. The Plaintiff and Consumer Subclass Members in British Columbia are entitled to a declaration under section 172(1)(a) of the *BPCPA* that Leon's has breached sections 4-5 and/or 8-9 of the *BPCPA*.

73. The Plaintiff and Consumer Subclass Members in British Columbia are entitled to an injunction under section 172(1)(b) of the *BPCPA* to restrain further breaches of the *BPCPA* by requiring that Leon's represents an accurate undiscounted value and discount value for the Homeware Products.

74. As a result of Leon's breaches of sections 4-5 and/or 8-9 of the *BPCPA*, the Plaintiff and Consumer Subclass Members in British Columbia have suffered loss and/or damage and are entitled to a restoration of some, or all, of the price paid by them and received by Leon's for the Homeware Products pursuant to section 172(3)(a) of the *BPCPA*. These same *BPCPA* breaches and resultant loss entitle the Plaintiff and Consumer Subclass Members in British Columbia to damages under section 171 of the *BPCPA*.

75. The Consumer Subclass Members resident outside of British Columbia plead and rely on the equivalent provisions of the other Consumer Protection Legislation in their respective provinces, each as amended from time to time and with regulations in force at material times, as set out in Schedule A to this Notice of Civil Claim.

Unjust Enrichment

76. As set out above, Leon's has been enriched by the amounts received from the Plaintiff and Class Members through the sale of the Homeware Products. The Plaintiff and Class Members suffered a corresponding deprivation of this same amount.

77. There is no juristic reason for Leon's to retain these benefits as the contracts between Leon's and the Plaintiff and Class Members for the Homeware Products are illegal, void, and/or voidable due to Leon's breach of the *Competition Act*.

78. As a result of their actions, Leon's has been unjustly enriched. The Plaintiff and Class Members are entitled to restitution of the benefits received by Leon's on account of the sale of the Homeware Products in Canada.

79. In the alternative, justice and good conscience require that Leon's disgorge to the Plaintiff and Class Members an amount attributable to the benefits received by them on account of the sale of the Homeware Products in Canada.

Punitive Damages

80. Leon's conduct in repeatedly, over a period of years, misrepresenting the value of the Homeware Products and/or the benefit that purchasers would obtain by purchasing these products at a discount when such discount did not exist or was substantially less than represented, in an overwhelming majority of all sales, was high-handed, outrageous, reckless, and predatory. Given this reprehensible misconduct, Leon's is liable to pay punitive damages to the Plaintiff and Class Members.

Limitation Periods

81. Class Members who purchased Homeware Products on or after June 1, 2013 plead and rely on the doctrine of discoverability and section 8 of the *Limitation Act*, SBC 2012, c 13 to postpone the running of the limitation period. Class Members who purchased Homeware Products on or before May 31, 2013 plead and rely on section 6(4) of the *Limitation Act*, RSBC 1996, c 266 to postpone the running of the limitation period. Class Members could not have reasonably known that a claim existed against Leon's until the date on which this Notice of Civil Claim was filed.

Service on the Defendant

82. The Plaintiff and Class Members have the right to serve this Notice of Civil Claim on Leon's pursuant to section 10 the *Court Jurisdiction and Proceedings Transfer Act* because there is a real and substantial connection between British Columbia and the facts alleged in this proceeding pursuant to sections 10(e), (h) and/or (i) of the *Court Jurisdiction and Proceedings Transfer Act* as this action:

- a) concerns contractual obligations that, to a substantial extent, were to be performed in British Columbia;
- b) concerns a business carried on in British Columbia; and/or
- c) is a claim for an injunction ordering a party to do or refrain from doing anything in British Columbia.

Plaintiff's address for service:

Slater Vecchio LLP
1800 - 777 Dunsmuir Street
Vancouver, BC V7Y 1K4

Fax number for service: 604.682.5197

Email address for service: service@slatervecchio.com

Place of trial: Vancouver, BC

The address of the registry is:

800 Smithe Street
Vancouver, BC
V6Z 2E1

Date: December 11, 2024



Signature of lawyer for plaintiff

Saro J. Turner

Sam Jaworski

Justin Giovannetti

Slater Vecchio LLP

Rule 7-1 (1) of the Supreme Court Civil Rules states:

(1) Unless all parties of record consent or the court otherwise orders, each party of record to an action must, within 35 days after the end of the pleading period,

(a) prepare a list of documents in Form 22 that lists

(i) all documents that are or have been in the party's possession or control and that could, if available, be used by any party at trial to prove or disprove a material fact, and

(ii) all other documents to which the party intends to refer at trial, and

(b) serve the list on all parties of record.

Appendix

[The following information is provided for data collection purposes only and is of no legal effect.]

Part 1: CONCISE SUMMARY OF NATURE OF CLAIM:

This is a proposed class proceeding alleging that Leon's misrepresents the value and offer not existent discounts on clothing, accessories, and other products.

Part 2: THIS CLAIM ARISES FROM THE FOLLOWING:

[Check one box below for the case type that best describes this case.]

A personal injury arising out of:

a motor vehicle accident

medical malpractice

another cause

A dispute concerning:

contaminated sites

construction defects

real property (real estate)

personal property

the provision of goods or services or other general commercial matters

investment losses

the lending of money

an employment relationship

a will or other issues concerning the probate of an estate

a matter not listed here

Part 3: THIS CLAIM INVOLVES:

[Check all boxes below that apply to this case]

a class action

maritime law

aboriginal law

constitutional law

conflict of laws

none of the above

do not know

Part 4:

Competition Act, RSC 1985, c C-34

Business Practices and Consumer Protection Act, SBC 2004, c 2

Class Proceedings Act, RSBC 1996, c 50

Limitation Act, SBC 2012, c 13

Limitation Act, RSBC 1996, c 266

Court Order Interest Act, Court Jurisdiction and Proceedings Transfer Act, SBC 2003, c

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SCHEDULE A

Other Consumer Protection Legislation

Alberta

1. Leon's has breached the *Consumer Protection Act*, RSA 2000, c C-26.3 (the "**Alberta CPA**"). Consumer Subclass Members in Alberta are "consumers" within the meaning of section 1 of the *Alberta CPA*. The Homeware Products are "goods" within the meaning of section 1. Leon's is a "supplier" within the meaning of section 1. The supply of each of the Homeware Products in Alberta is a "consumer transaction" within the meaning of section 1.
2. By reason of Leon's conduct, Leon's breached sections 5-6 of the *Alberta CPA*. Leon's actions are in violation of subsections 6(2)(b)-(c), 6(3)(c), 6(4)(a), 6(4)(e), and/or 6(4)(o) and constitute "unfair practices" in breach of section 6(1.1).
3. As a result of Leon's breaches of the *Alberta CPA*, Consumer Subclass Members in Alberta are entitled to restitution of some, or all, of the amounts paid by them and received by Leon's, directly or indirectly, for the Homeware Products pursuant to subsections 13(2)(d)(ii) and/or 142.1(2)(c)(ii). In the alternative, Consumer Subclass Members in Alberta are entitled to damages including but not limited to amounts paid by them for the Homeware Products pursuant to subsections 7(1), 7(3), 13(2)(b), and/or 142.1(2)(a). Further, Leon's is liable to pay punitive damages to Consumer Subclass Members in Alberta pursuant to subsections 7.2(1), 13(2)(c), and/or 142.1(2)(b).
4. Leon's cannot rely on any arbitration clause, if any such clause exists, due to section 16 of the *Alberta CPA* which invalidates any such clause between a "supplier" and a "consumer" in respect of a "consumer transaction" rendering such a clause void and unenforceable.
5. Consumer Subclass Members in Alberta further plead that the notice requirement pursuant to subsection 7.1(1) of the *Alberta CPA* is fulfilled by the delivery of written notice to Leon's as set out in the Notice of Civil Claim, or in the alternative by the filing of this Notice of Civil Claim.

Saskatchewan

6. Leon's has breached *The Consumer Protection and Business Practices Act*, SS 2013, c C-30.2 (the "**Saskatchewan CPBPA**"). Consumer Subclass Members in Saskatchewan are "consumers" within the meaning of section 2 of the *Saskatchewan CPBPA*. The Homeware Products are "goods" within the meaning of section 2. Leon's is a "supplier" within the meaning of section 2. The supply of the Homeware Products in Saskatchewan are "transactions involving goods and services" within the meaning of sections 2 and 5.

7. By reason of Leon's conduct, Leon's breached sections 6-9 of the *Saskatchewan CPBPA*. Leon's actions are in violation of subsections 6(a)-(c), 7(c), 7(i), 7(o), and/or 7(q) and constitute "unfair practices" in breach of section 8.

8. As a result of Leon's breaches of the *Saskatchewan CPBPA*, Consumer Subclass Members in Saskatchewan are entitled to restitution of some, or all, of the amounts paid by them and received by Leon's, directly or indirectly, for the Homeware Products pursuant to subsection 93(1)(a). In the alternative, Consumer Subclass Members in Saskatchewan are entitled to damages including but not limited to amounts paid by them for the Homeware Products pursuant to subsection 93(1)(b). Further, Leon's is liable to pay punitive damages to the Consumer Subclass Members in Saskatchewan pursuant to subsection 93(1)(b).

9. Leon's cannot rely on any arbitration clause or class action waiver, if any such clause or waiver exists, due to section 101 of the *Saskatchewan CPBPA* which invalidates any such clause or waiver, rendering it void.

Manitoba

10. Leon's has breached *The Business Practices Act*, CCSM, c B120 (the "**Manitoba BPA**"). Consumer Subclass Members in Manitoba are each a "consumer" within the meaning of section 1 of the *Manitoba BPA*. The Homeware Products are "goods" within the meaning of section 1. Leon's is a "supplier" within the meaning of section 1. The

supply of each of the Homeware Products in Manitoba is a “consumer transaction” within the meaning of section 1.

11. By reason of Leon’s conduct, Leon’s breached section 2 of the *Manitoba BPA*. Leon’s actions are in violation of subsections 2(1)(a)-(b), 2(3)(c), 2(3)(l), 2(3)(p), 3(1)(a), 3(2)(a), and/or 3(2)(b) and constitute “unfair business practices” in breach of section 5.

12. As a result of Leon’s breaches of the *Manitoba BPA*, Consumer Subclass Members in Manitoba are entitled to repayment of the amount by which the payments made by them and received by Leon’s, directly or indirectly, for the Homeware Products exceed the value of these products pursuant to subsection 23(2)(d). In the alternative, Consumer Subclass Members in Manitoba are entitled to damages including but not limited to amounts paid by them for the Homeware Products pursuant to subsection 23(2)(a). Further, Leon’s is liable to pay punitive damages to the Consumer Subclass Members in Manitoba pursuant to subsection 23(4).

Québec

13. Leon’s has breached the *Consumer Protection Act*, CQRL c P 40-1 (the “**Québec CPA**”). Consumer Subclass Members in Québec are “consumers” within the meaning of section 1(e) of the *Québec CPA*. The Homeware Products are “goods” within the meaning of section 1(d) of the *Québec CPA*. Leon’s is doing business as a “merchant” within the meaning of the *Québec CPA*. The supply of each of the Homeware Products in Québec constitutes a consumer contract within the meaning of section 2 of the *Québec CPA*.

14. By reason of Leon’s conduct, Leon’s breached sections 219, 221, 225(c), and 228 of the *Québec CPA*. Leon’s actions constitute “prohibited business practices” under section 215. In addition, Leon’s actions also constitute objective lesion under section 8.

15. As a result of Leon’s breaches of the *Québec CPA*, Consumer Subclass Members in Québec are entitled to a reduction in their correlative obligation (i.e. the purchase price they paid), recover damages, including but not limited to amounts paid by them for the Homeware Products, as well as punitive damages under section 272 of the *Québec CPA*.

16. Leon's cannot rely on any arbitration clause or class action waiver, if any such clause or waiver exists, due to section 11.1 of the *Québec CPA*, which invalidates and prohibits any such clause or waiver, rendering it void.

Ontario

17. Leon's has breached the *Consumer Protection Act*, 2002, SO 2002, c 30, Sched A (the "**Ontario CPA**"). Consumer Subclass Members in Ontario are "consumers" within the meaning of section 1 of the *Ontario CPA*. The Homeware Products are "goods" within the meaning of section 1. Leon's is a "supplier" within the meaning of section 1. The supply of each of the Homeware Products in Ontario constitutes a "consumer transaction" within the meaning of section 1. Leon's made "representations" within the meaning of section 1.

18. By reason of Leon's conduct, Leon's breached sections 14, 15, and 17 of the *Ontario CPA*. Leon's actions are in violation of subsections 14(2)(3), 14(2)(11), 14(2)(14), 15(2)(a), 15(2)(c), 15(2)(f), and/or 15(2)(g) and constitute "unfair business practices" in breach of section 17.

19. As a result of Leon's breaches of the *Ontario CPA*, Consumer Subclass Members in Ontario are entitled to restitution of some, or all, of the amounts paid by them and received by Leon's, directly or indirectly, for the Homeware Products pursuant to subsection 18(1). In the alternative, Consumer Subclass Members in Ontario are entitled to damages including but not limited to amounts paid by them for the Homeware Products pursuant to subsection 18(2). Further or in the alternative, Consumer Subclass Members in Ontario are entitled to repayment of the amount by which the payments made by them for the Homeware Products exceed the value of these products pursuant to subsection 18(2). Further, Leon's is liable to pay punitive damages to the Consumer Subclass Members in Ontario pursuant to subsection 18(11).

20. Leon's cannot rely on any arbitration clause or class action waiver, if any such clause or waiver exists, due to sections 7 and 8 of the *Ontario CPA*, which provide the

right to begin or be a member of a class proceeding in respect to a consumer agreement and invalidates any clause or waiver that seeks to limit this right.

21. Consumer Subclass Members in Ontario further plead that the notice requirement pursuant to subsection 18(3) of the *Ontario CPA* is fulfilled by the delivery of written notice to Leon's as set out in the Notice of Civil Claim, or in the alternative by the filing of this Notice of Civil Claim. In the further alternative, Consumer Subclass Members in Ontario plead that the Court should disregard the requirement for notice pursuant to subsection 18(15) of the *Ontario CPA*.

Prince Edward Island

22. Leon's has breached the *Business Practices Act*, RSPEI 1988, c B-7 (the "***PEI BPA***"). Consumer Subclass Members in Prince Edward Island are "consumers" within the meaning of section 1 of the *PEI BPA*. The Homeware Products are "goods" within the meaning of section 1. Leon's made "consumer representations" within the meaning of section 1.

23. By reason of Leon's conduct, Leon's breached sections 2 and 3 of the *PEI BPA*. Leon's actions are in violation of subsections 2(a)(iii), 2(a)(x), 2(a)(xiii), 2(b)(i), 2(b)(iii), 2(b)(vi), and/or 2(b)(vii) and constitute "unfair practices" in breach of section 3.

24. As a result of Leon's breaches of the *PEI BPA*, Consumer Subclass Members in Prince Edward Island are entitled to restitution of some, or all, of the amounts paid by them and received by Leon's, directly or indirectly, for the Homeware Products pursuant to subsection 4(1). In the alternative, Consumer Subclass Members in Prince Edward Island are entitled to damages including but not limited to amounts paid by them for the Homeware Products pursuant to subsection 4(1). Further or in the alternative, Consumer Subclass Members in Prince Edward Island are entitled to repayment of the amount by which the payments made by them for the Homeware Products exceed the value of these products pursuant to subsection 4(1). Further, Leon's is liable to pay punitive damages to the Consumer Subclass Members in Prince Edward Island pursuant to subsection 4(2).

25. Consumer Subclass Members in Prince Edward Island further plead that the notice requirement pursuant to subsection 4(5) of the *PEI BPA* is fulfilled by the delivery of written notice to Leon's as set out in the Notice of Civil Claim, or in the alternative by the filing of this Notice of Civil Claim.

Newfoundland and Labrador

26. Leon's has breached the *Consumer Protection and Business Practices Act*, SNL 2009, c C-31.1 (the "***Newfoundland CPBPA***"). Consumer Subclass Members in Newfoundland are "consumers" within the meaning of section 2 of the *Newfoundland CPBPA*. The Homeware Products are "goods" within the meaning of section 2. Leon's is a "supplier" within the meaning of section 2. The supply of the Homeware Products in Newfoundland constitutes a "consumer transaction" within the meaning of section 2.

27. By reason of Leon's conduct, Leon's breached sections 7 and 9 of the *Newfoundland CPBPA*. Leon's actions are in violation of subsections 7(1)(c), 7(1)(l), 7(1)(w), 8(1)(b), 8(1)(d)-(e), and/or 8(f) and constitute "unfair business practices" in breach of section 9.

28. As a result of Leon's breaches of the *Newfoundland CPBPA*, Consumer Subclass Members in Newfoundland are entitled to damages including but not limited to the amounts paid by them for the Homeware Products pursuant to subsection 10(2)(b). Further, the Consumer Subclass Members in Newfoundland are entitled to repayment of the amount by which the payments made by them and received by Leon's, directly or indirectly, for the Homeware Products exceed the value of these products pursuant to subsection 10(2)(e). Further, Leon's is liable to pay punitive damages to the Consumer Subclass Members in Newfoundland pursuant to subsection 10(2)(b).

29. Leon's cannot rely on any arbitration clause or class action waiver, if any such clause or waiver exists, due to section 3 of the *Newfoundland CPBPA*, which invalidates any such clause or waiver, rendering it void.