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UNITED STATES DISTRICT COURT

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NORTHERN DISTRICT OF CALIFORNIA

17

18 RODNEY CARVALHO, individually and on
behalf of all others similarly situated,

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Plaintiff,

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21 vs.

22 HP INC., a Delaware corporation,

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Defendant.

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Case No.

CLASS ACTION COMPLAINT

DEMAND FOR JURY TRIAL

1 Plaintiff Rodney Carvalho (“Plaintiff”), individually and on behalf of all others similarly
2 situated, brings this action against Defendant HP Inc. (“HP”). Upon personal knowledge as to his
3 own acts and status and upon information and belief as to all other matters, Plaintiff alleges the
4 following:

5 **INTRODUCTION**

6 1. This is a class action against HP for false advertising on its website, HP.com. HP is
7 the largest computer seller in the United States. To sell more products and maximize its profits, HP
8 displays false reference prices on its website and advertises false savings based on those prices.
9 The reference prices are false because they do not represent the actual prices at which HP regularly
10 sells its products. The savings are false because they do not represent the actual savings obtained
11 by customers. This unlawful marketing practice, commonly known as false reference pricing,
12 artificially increases demand for HP products and induces customers to pay more for them based on
13 a false impression of their value. HP’s use of false reference prices and false savings is pervasive
14 throughout its website.

15 2. California law and federal regulations specifically prohibit this type of false
16 advertising. For example, California’s consumer protection statute prohibits “[m]aking false or
17 misleading statements of fact concerning reasons for, existence of, or amounts of, price reductions.”
18 Civ. Code § 1770(a)(13). California’s false advertising law prohibits advertising a former price
19 unless it was the prevailing market price during the previous three months. Bus. & Prof. Code §
20 17501. As explained in the Federal Trade Commission’s (FTC) Guide Against Deceptive Pricing,
21 [When] the former price being advertised is not bona fide but fictitious—for example,
22 where an artificial, inflated price was established for the purpose of enabling the
23 subsequent offer of a large reduction—the “bargain” being advertised is a false one;
the purchaser is not receiving the unusual value he expects.

24 16 C.F.R. § 233.1.

25 3. HP willfully violates these laws. For example, on September 7, 2021, Plaintiff
26 purchased an All-in-One desktop computer on HP’s website. HP advertised the computer as being
27 on sale for \$899.99 and represented to customers that they would “Save \$100 instantly” off the
28 regular price of \$999.99, which was displayed in strikethrough typeface (e.g., ~~\$999.99~~). Below is a

1 screenshot of Plaintiff’s computer, as advertised on HP’s website the day Plaintiff made his purchase.

2 **September 7, 2021**

3 **HP All-in-One 24-dp1056qe PC**

4 ★★★★★ 4.3 (112) Write a review

5 Special offers: Extra 5% off on select Accessories (limit 1 per type) with PC purchase | Free USB Headset with select PC purchase! **Save \$100 instantly**

6 See similar products

- Windows 10 Home 64
- 11th Generation Intel® Core™ i7 processor
- Intel® Iris® X® Graphics
- 16 GB memory; 1 TB HDD storage; 256 GB SSD storage
- 23.8" diagonal FHD touch display

7 See all Specs

8 **Protect your Device with an HP Care Pack**

9 HP Care Pack [LEARN MORE >](#)

- 1-Year Standard Warranty Included
- HP 2 year w/Accidental Damage +~~\$181.99~~ \$153.99
- HP 3 year Protection Plan +~~\$181.99~~ \$153.99

10 **ADD TO CART**

11 ~~\$999.99~~
\$899.99

12 **Labor Day Sale! Shop our best deals.**
5% off select HP products \$599+ with code HP21LD55

13 Product # 20W59AA#ABA

16 4. At the time of his purchase, Plaintiff believed he was buying a computer that was
 17 valued at and regularly sold for \$999.99. But discovery will show that in the weeks and months prior
 18 to Plaintiff’s purchase, HP rarely, if ever, offered his computer for sale at the advertised reference
 19 price of \$999.99. Indeed, pricing data compiled by Plaintiff’s counsel demonstrates as much:

20 **Advertised Prices of Plaintiff’s Computer on HP.com**

21

Date	Ref. Price	Sale Price
4/29/2021	\$999.99	\$899.99
5/29/2021	\$999.99	\$899.99
6/29/2021	\$999.99	\$899.99
7/29/2021	\$999.99	\$899.99
8/29/2021	\$999.99	\$899.99
9/29/2021	\$999.99	\$899.99

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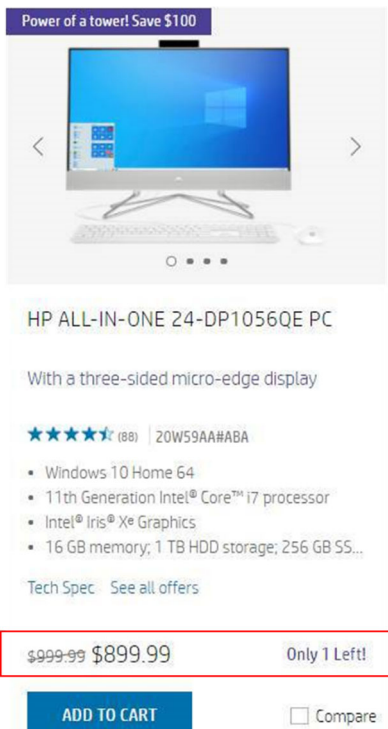
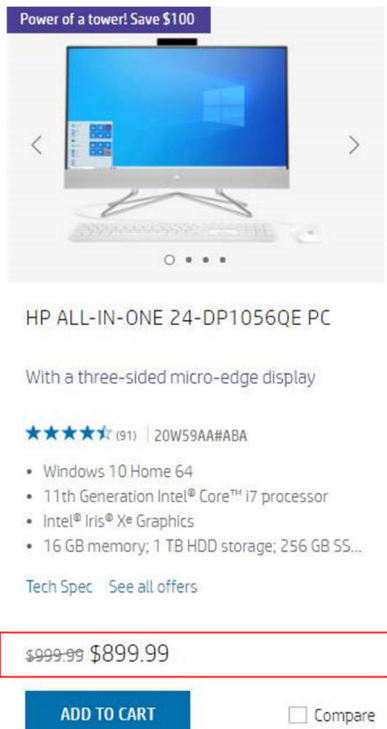
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26 5. By using false reference prices to artificially increase the perceived value of HP
 27 products, HP harms consumers by inducing them to pay more for its products and make purchases
 28 they would not have otherwise made.

1 6. HP’s false reference prices also harm competition by giving HP an unfair advantage
 2 over other computer manufacturers that do not engage in false reference pricing. After all, a
 3 customer is more likely to purchase a \$2,000 computer advertised at 50% off its regular price than
 4 pay full price for a \$1,000 computer.

5 7. In addition to using false reference prices, HP also falsely advertises limited-quantity
 6 and limited-time offers. For example, on May 28, 2021, HP featured Plaintiff’s computer in the
 7 “Weekly Deal” section of its website and advertised there was “**Only 1 Left!**” Yet in the weeks and
 8 months that followed, HP continued to sell Plaintiff’s computer but removed any representations
 9 about the supposed limited quantity.

<p>10 <u>May 28, 2021</u></p> 	<p>10 <u>June 4, 2021</u></p> 
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23 8. In another effort to artificially increase demand for its products, on September 28,
 24 2021, HP advertised Plaintiff’s computer for \$899.99 as part of a “**72 Hour Flash Sale.**” At the top
 25 of the screen, HP displayed a banner that stated, “**Get limited time deals on select products**” and
 26 “**Hurry! This sale ends in:**” above a live countdown timer. Below is an example of a screenshot
 27 that was taken on September 28, 2021, at 3:07 p.m., indicating the sale would end in 8 hours, 52
 28 minutes, and 31 seconds.

September 28, 2021

72 Hour Flash sale
Get limited time deals on select products.
FREE shipping storewide.

Hurry! This sale ends in:
08 : 52 : 31
hours minutes seconds

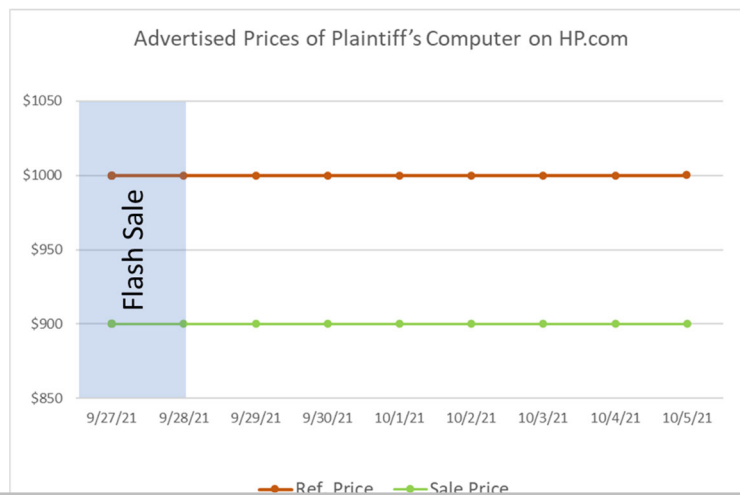
Top Deals Laptops Desktops Printers Monitors Accessories Bundle Specials

Intuitively designed! Save \$100
HP ENVY ALL-IN-ONE - 32-A1055
Pop-up privacy camera featuring an 88° wide-angle
★★★★☆ (76) | 3UR18AA#ABA | ENERGY STAR
• Windows 10 Home 64
• 10th Generation Intel® Core™ i7 processor
• NVIDIA® GeForce RTX™ 2070 (8 GB GDDR6 d...
• 16 GB memory, 1 TB HDD storage, 512 GB SS...
Tech Spec See all offers
~~\$2,399.99~~ **\$2,299.99** Ships by 10/13/21
ADD TO CART Compare

Pop-up privacy camera! Save \$100
HP PAVILION 24-K1305ST BUNDLE PC
With a micro-edge display, sleek and slim design
★★★★☆ (2) | 20W66AA#A... | ENERGY STAR
• Windows 10 Home 64
• 11th Generation Intel® Core™ i5 processor
• NVIDIA® GeForce® MX350 (4 GB GDDR5 dedic...
• 16 GB memory, 1 TB HDD storage, 256 GB SS...
Tech Spec See all offers
~~\$1,099.99~~ **\$999.99**
ADD TO CART Compare

Power of a tower! Save \$100
HP ALL-IN-ONE 24-DP1056QE PC
With a three-sided micro-edge display
★★★★☆ (117) | 20W59AA#A...
• Windows 10 Home 64
• 11th Generation Intel® Core™ i7 processor
• Intel® Iris® X® Graphics
• 16 GB memory, 1 TB HDD storage, 256 GB SS...
Tech Spec See all offers
~~\$999.99~~ **\$899.99**
ADD TO CART Compare

9. But the sale did not end in 8 hours, 52 minutes, and 31 seconds. Instead, HP merely removed the flash sale marketing from its website and continued to sell Plaintiff's computer at the same price and discount, as shown below.



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