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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

TINA CAVALLERI, an individual; MARK
GLINOVA, an individual; MENG YAO
YANG, an individual; on behalf of
themselves and all others similarly situated,

Plaintiffs,

vs.

HERMÈS INTERNATIONAL, a French
corporation and HERMÈS OF PARIS, INC.,
a New York corporation, and DOES 1
through 10; inclusive,

Defendants.

Case No. 3:24-cv-01707-JD

HON. JAMES DONATO

**FIRST AMENDED CLASS
ACTION COMPLAINT FOR:**

- 1. VIOLATION OF SHERMAN
ACT (15 U.S.C. §2);**
- 2. VIOLATION OF
CARTWRIGHT ACT (BUS. &
PROF. CODE, § 16720);**
- 3. VIOLATION OF
CARTWRIGHT ACT (BUS. &
PROF. CODE, § 16727); AND**
- 4. VIOLATION OF UNFAIR
COMPETITION LAW (BUS.
& PROF. CODE, §§ 17200, ET
SEQ.)**

JURY TRIAL DEMANDED

1 Plaintiffs Tina Cavalleri, Mark Glinoga, and Mengyao Yang (collectively, “Plaintiffs”),
 2 individually and on behalf of all others similarly situated, allege upon personal knowledge as to
 3 their own acts and upon information and belief (based on the investigation of counsel), as follows:

4 **NATURE OF ACTION**

5 1. This is an antitrust and unfair business practices class action arising out of
 6 Defendants Hermès International and Hermès of Paris, Inc. (“Defendants” or “Hermès”) unlawful
 7 practice of tying the purchase of Defendants’ popular Birkin bags to the purchase of other
 8 Defendants’ luxury clothing and accessory items. As set forth herein, Defendants’ practices are
 9 unlawful. In this action, Plaintiffs seek compensatory and punitive damages and appropriate
 10 injunctive relief on behalf of themselves and all others similarly situated.

11 **PARTIES**

12 2. Plaintiff Tina Cavalleri (“Plaintiff Cavalleri”) is a resident of California.

13 3. Plaintiff Mark Glinoga (“Plaintiff Glinoga”) is a resident of California.

14 4. Plaintiff Mengyao Yang (“Plaintiff Yang”) is a resident of California.

15 5. Defendant Hermès International (“Hermès International”) is a corporation,
 16 organized and existing under the laws of France, having its principal place of business located in
 17 Paris, France. Hermès International does business in the United States, including New York,
 18 through its wholly-owned subsidiary Hermès of Paris, Inc.

19 6. Defendant Hermès of Paris, Inc. (“Hermès of Paris”) is a corporation, organized and
 20 existing under the laws of New York, having its principal place of business located at 55 East 59th
 21 Street, New York, New York 10022. Hermès of Paris, Inc. is the sole authorized distributor of
 22 the Birkin handbags in the United States and has the exclusive right to sell Birkin handbags under
 23 the Hermès trademark in the United States.

24 7. Hermès International and Hermès of Paris are collectively referenced herein as
 25 Hermès.

26 8. The true names and capacities, whether individual, corporate, partnership, associate
 27 or otherwise of defendants Does 1 through 10, inclusive, are unknown to Plaintiffs, who therefore
 28 sue these defendants by such fictitious names. Plaintiffs will seek leave to amend this complaint

1 to allege the true names and capacities of Does 1 through 10, inclusive, when they are ascertained.

2 9. Plaintiffs are informed and believe, and based upon that information and belief
3 allege, that the Defendants named in this complaint, including Does 1 through 10, inclusive, are
4 responsible in some manner for one or more of the events and happenings that proximately caused
5 the injuries and damages alleged herein.

6 10. Plaintiffs are informed and believe, and based upon that information and belief
7 allege, that each of the Defendants, including Does 1 through 10, inclusive, in performing or
8 omitting to perform the acts alleged were, at various times, acting within the course and scope of
9 his or her employment, authority, or apparent authority as an employee, agent and/or
10 representative of the other Defendants. Plaintiffs are further informed and believe, and based
11 upon that information and belief allege, that at various other times the Defendants, in performing
12 or omitting to perform the acts alleged hereinafter, acted outside the course and scope of their
13 employment, authority, or apparent authority, did not utilize or operate through any corporations
14 or businesses, and were not engaged in any business activities whatsoever, but rather, were acting
15 outside the realm of any business individually and are thus liable for all damages alleged herein,
16 jointly and severally.

17 11. Plaintiffs are informed and believe, and based upon that information and belief
18 allege, that each Defendant named in this complaint, including Does 1 through 10, inclusive,
19 knowingly and willfully acted in concert, conspired and agreed together among themselves, and
20 entered into a combination and systemized campaign of activity, to inter alia damage Plaintiffs
21 and the Class and to otherwise consciously and/or recklessly act in derogation of the rights of
22 Plaintiffs and the Class, and the trust reposed by Plaintiffs and the Class in each of the Defendants,
23 the acts being negligently and/or intentionally inflicted. This conspiracy, and Defendants'
24 concerted actions, were such that, to the information and belief of Plaintiffs and the Class, and to
25 all appearances, Defendants, represented a unified body so that the actions of one Defendant were
26 accomplished in concert with, and with knowledge, ratification, authorization and approval of
27 each of the other Defendants.

JURISDICTION AND VENUE

12. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1331 because this case arises under the Sherman Act, 15 U.S.C. § 2.

13. This Court has supplemental jurisdiction over the state law claims in this action pursuant to 28 U.S.C. § 1367 because the state law claims form part of the same case or controversy as those that give rise to the federal claims.

14. This Court has personal jurisdiction over Defendants because they conduct business in California and have sufficient minimum contacts with California. Defendants also advertise and solicit business in California.

15. Pursuant to 28 U.S.C. § 1391, this Court is the proper venue for this action because a substantial part of the events, omissions, and acts giving rise to the claims herein occurred in this District: Defendants gain significant revenue and profits from doing business in this District, Class Members affected by the practices asserted herein reside in this District, and Defendants employ numerous people in this District. Each Defendant has transacted business, maintained substantial contacts, and/or committed overt acts in furtherance of the illegal scheme and conspiracy throughout the United States, including in this District. Defendants' conduct had the intended and foreseeable effect of causing injury to persons residing in this District.

FACTUAL ALLEGATIONS

A. Hermès.

16. Hermès is a world-famous designer and producer of high-quality merchandise including, *inter alia*, luxury handbags, apparel, scarves, jewelry, fashion accessories, and home furnishings.

17. For decades, Hermès has developed its reputation and distinctive image.

18. Hermès' origins date back to 1837, when it began designing and manufacturing high quality harnesses for horses. During the twentieth century, Hermès expanded its business to include handbags, personal leather goods, and apparel.

19. Hermès is the exclusive distributor or licensor in the United States of its merchandise.

20. Hermès sells its products directly to consumers through Hermès-owned retail stores and (except for Birkin handbags) through its website at www.hermes.com. Hermès currently operates approximately 43 retail stores in the United States with 8 of those retail stores located in California.

B. The Birkin Handbag.

21. Hermès is well known for its famous Birkin and Kelly handbags (collectively “Birkin handbag” or “Birkin bag”), which are exclusive Hermès designs. Defendants are the exclusive distributors of the Birkin bag in the United States.

22. Each Birkin handbag is handcrafted from the finest leather by experienced artisans in France. The manufacturing of a single Birkin handbag requires many hours of an artisan’s time. The intensive labor and craftsmanship and high-quality leathers required make the Birkin handbag difficult to produce and expensive. The price of a Birkin handbag ranges from thousands of dollars to over one hundred thousand dollars.

23. “The desirability of an Hermès Birkin handbag – a symbol of rarefied wealth – is such that not even a global pandemic can dull demand for it.” In the second quarter of 2021, Hermès’ sales for the leather and saddlery division, which includes the Birkin handbags, more than doubled from a year ago and rose by 24% from their pre-pandemic June 2019 levels.

24. Despite the price and exclusivity, the Birkin handbag has become a household name and well known by the general public, both in name and by its distinctive design.

25. The Birkin handbag is an icon of fashion, and the primary product associated with Hermès. A September 2021 Vanity Fair article noted “There is a kind of fashion object so long lasting, so tirelessly wanted that its name becomes recognizable, a metonym for the brand that made it: the Air Jordan, the Love bracelet. Few brands, successful though they may be, attain that kind of saturation.”

26. The relevant market at issue is the market and/or submarket of luxury handbags in the United States, within which Defendants, through their Birkin handbags, exercise substantial market power. Defendants’ iconic Birkin bag, limited production, and high demand contribute to their dominant position in this market. Defendants’ dominant position in this market,

1 characterized by high barriers to entry and brand recognition, allows them to control prices and
2 engage in the anti-competitive conduct alleged herein to the detriment of consumers.

3 27. The luxury handbag market is characterized by high price points, superior
4 craftsmanship and materials, and investment potential. The Birkin bag's exclusivity, limited
5 availability, and iconic status make it difficult to find a perfect substitute. While the Birkin bag
6 occupies a distinct and exclusive niche within the luxury handbag market, a limited number of
7 handbags may be considered potential substitutes for cross-elasticity purposes. These
8 alternatives, primarily consisting of the most high-end offerings from elite designer and luxury
9 brands like Gucci, Prada, and Louis Vuitton, nonetheless lack the unique brand identity and
10 exclusivity that define the Birkin bag, rendering them imperfect substitutes. This limited
11 substitutability reinforces the Birkin bag's market power and enables Defendants to engage in
12 anti-competitive practices.

13 28. While precise figures for Hermès' market share in the luxury handbag market are
14 not publicly available, the available information strongly suggests Hermès' significant presence
15 in and dominance of the luxury handbag market. While these sources do not provide an exact
16 percentage, it is clear that Hermès holds a substantial share of the luxury handbag market in 2023.

17 a. Hermès reported strong financial performance in 2023, with significant
18 growth in their leather goods and saddlery division (which includes handbags).¹ This suggests a
19 healthy market share and continued demand for their products.

20 b. Publications like LUXlife Magazine² and PurseBop³ highlighted Hermès'
21 success in 2023, particularly with the Birkin bag, despite challenges faced by the broader luxury
22 market. This further emphasizes their strong position.

23 29. Defendants have made the following statements and admissions related to the
24

25 ¹ https://assets-finance.hermes.com/s3fs-public/node/pdf_file/2024-02/1707422069/hermes_20240209_pr_2023fullyearresults_va.pdf

26 ² <https://www.lux-review.com/as-luxury-sales-slumped-in-2023-hermes-surpassed-expectations/>

27 ³ <https://www.pursebop.com/hermes-revenues-rise-22-in-first-half-of-2023-with-no-decline-in-united-states/> ; <https://www.pursebop.com/hermes-birkins-and-kelly-help-lift-q1-2023-sales-23/>

1 relevant market and its market power:

- 2 a. In a January 9, 2023, press release Defendants stated it has “forge[d] the singularity
3 of Hermès . . .”
- 4 b. On February 9, 2024, Axel Dumas, Executive Chairman of Hermes, said: “In 2023,
5 Hermes has once again cultivated its singularity” and said “[t]hanks to its unique
6 business model.”
- 7 c. In its 2023 Universal Registration Document, Defendants stated “Hermes holds a
8 unique position in the luxury market.”
- 9 d. In a March 2024 letter to shareholders, Hermes stated it has “continued to
10 consolidate its position as one of the highest-performing companies in the Luxury
11 Products and Cosmetics sector in the MSCI ESG, Moody’s ESG, and Sustainalytics
12 ratings.”
- 13 e. In a complaint Defendants filed in an action entitled *Hermes International v. Mason*
14 *Rothschild*, USDC, Southern District of New York, filed 1/14/22, Defendants sued
15 for infringement of “the distinctive design of the BIRKIN handbag,” and alleged
16 that:
 - 17 i. “There’s nothing more iconic than the Hermès Birkin bag”;
 - 18 ii. “A Birkin handbag is a highly valuable asset in the physical world,”
 - 19 iii. The Birkin’s “mysterious waitlist, intimidating price tags and extreme
20 scarcity have made it a highly covetable ‘holy grail’ handbag that doubles as
21 an investment or store of value”;
 - 22 iv. “Hermès has sold millions of dollars’ worth of Birkin handbags in significant
23 quantities since its inception in 1986. Such sales have occurred in the United
24 States, France, and throughout the world”; and
 - 25 v. “The Birkin handbag has been recognized as one of the best investments any
26 person can make with its increasing value beating returns from the stock
27 market and even gold.”

28 30. The luxury handbag market, recognized as a distinct economic entity by both the

1 industry and consumers, operates independently from the general handbag market. Luxury
2 handbags are characterized by their hand-crafted or artisan construction, exceptionally high price
3 points often exceeding tens of thousands of dollars, and unique production processes emphasizing
4 high-quality materials and craftsmanship. This market caters to a niche clientele of affluent
5 consumers, utilizes specialized vendors and sales associates with expertise in high-end products,
6 and exhibits a low sensitivity to price fluctuations.

7 31. The luxury handbag market tends to be relatively inelastic. Luxury handbag buyers
8 are typically less price-sensitive than consumers of ordinary goods. They are often high-income
9 individuals who view these items as status symbols, investments, or collectibles. Therefore, a
10 price increase may not significantly deter their demand. True luxury handbags, like the Birkin
11 bag, have a unique brand identity, craftsmanship, and exclusivity that cannot be easily replicated.
12 While there are other high-end brands, they may not be seen as perfect substitutes for a specific
13 luxury handbag. This lack of substitutes reduces price elasticity.

14 32. Defendants have exploited the unique characteristics of the luxury handbag market,
15 including its relative inelasticity and affluent consumer base, to engage in a pattern of anti-
16 competitive conduct. This market, characterized by consumers who view these items as status
17 symbols, investments, or collectibles, demonstrates reduced price sensitivity, allowing
18 Defendants to artificially inflate the true prices of their handbags (as opposed to the nominal, retail
19 price of the Birkin bags). By leveraging the Birkin bag's unique brand identity, craftsmanship,
20 and exclusivity, which are not easily replicated by other high-end brands, Defendants have created
21 a market with limited direct substitutes, enabling them to maintain supracompetitive prices and
22 engage in unlawful restraints of trade, including the illegal tying arrangements alleged herein.

23 33. Defendants have systematically exploited their dominant market position in the
24 luxury handbag market to engage in a deceptive and manipulative pricing scheme, artificially
25 inflating the true cost of their Birkin handbags and reaping supracompetitive profits. The nominal
26 retail price of a Birkin bag is a facade, masking a hidden lottery system that forces consumers to
27 purchase substantial amounts of Hermès Ancillary Products to “qualify” for the mere opportunity
28 to buy a Birkin. This predatory practice not only drives up the true price of the Birkin bag – which

1 includes the cost of these coerced Ancillary Product purchases – but also generates additional
2 revenue for Defendants from consumers who never “qualify” and are left with Hermès Ancillary
3 Products that they never would have purchased but for their desire to acquire a Birkin bag. This
4 scheme represents a blatant abuse of market power and a deliberate deception of consumers,
5 resulting in substantial financial harm to the Class.

6 34. The artificial suppression of the nominal retail price of Birkin handbags is evidenced
7 by their robust resale value, which consistently and significantly exceeds the original purchase
8 price. This stark disparity between the initial cost and the secondary market valuation
9 unequivocally demonstrates that the advertised price is not the true price consumers ultimately
10 pay and exposes Defendants’ manipulation of the market to extract supracompetitive profits.

11 35. For example, a standard leather Birkin handbag can resell for 1.5 to 3 times its
12 original retail price, while exotic skin Birkin bags command even higher premiums, often fetching
13 2 to 5 times their original price or more. A Birkin 25 in Togo leather with gold hardware, typically
14 retailing for around \$10,000, can easily command \$20,000 or more on the resale market. This
15 extraordinary appreciation is supported by a study conducted by Baghunter, an online marketplace
16 for luxury handbags, which found that Birkin bags have offered an average annual return of 14.2%
17 over the past 35 years, with their value never decreasing.⁴

18 **C. Defendants’ Illegal Tying with the Birkin Handbag.**

19 36. The unique desirability, incredible demand and low supply of Birkin handbags gives
20 Defendants incredible market power. Defendants implemented a scheme to exploit this market
21 power by requiring consumers to purchase other, ancillary products from Defendants before they
22 will be given an opportunity to purchase a Birkin handbag. With this scheme Defendants were
23 able to effectively increase the price of Birkin handbags and, thus, the profits that Defendants earn
24 from Birkin handbags. The tied products include designer shoes, scarves, belts, clothing, jewelry,
25 and home goods sold by Hermès (“Ancillary Products”). There is a market for each of these tied
26 products.

27
28 ⁴ <https://baghunter.com/pages/hermes-birkin-values-research-study>

1 37. Birkin handbags cannot be purchased from Defendants through the Hermès website.
2 Instead, consumers can only purchase Birkin handbags from Defendants by physically going to a
3 *Hermès* retail store. However, unlike most consumer products – and most other products sold by
4 Defendants – consumers cannot simply walk into a *Hermès* retail store, pick out the Birkin
5 handbag they want and purchase it. Birkin handbags are never publicly displayed for sale at
6 *Hermès* retail stores. Indeed, it is often the case that there are no Birkin handbags *at all* at *Hermès*
7 retail stores or, if there are, there are only one, two or at most three Birkin handbags. But even if
8 there are Birkin handbags at a particular *Hermès* retail store, the handbags will not be displayed
9 on the sales floor for the general public. In fact, most consumers will never be shown a Birkin
10 handbag at *Hermès* retail store. Typically, only those consumers who are deemed worthy of
11 purchasing a Birkin handbag will be shown a Birkin handbag (in a private room). The chosen
12 consumer will be given the opportunity to purchase the specific Birkin handbag that they are
13 shown. Consumers cannot order a Birkin handbag at the retail location. For all practical
14 purposes, there is no way to order a bag in the style, size, color, leather, and hardware that a
15 consumer wants.

16 38. Hermès Sales Associates are tasked by Defendants with selecting those consumers
17 who are qualified to purchase Birkin handbags. These sales associates are directed by Defendants
18 to only offer Birkin handbags to consumers who have established a sufficient “purchase history”
19 or “purchase profile” with Defendants of Defendants’ ancillary products such as shoes, scarves,
20 belts, clothing, jewelry and home goods. Only once a consumer has a sufficient purchase history
21 or purchase profile with Defendants, will the consumer be offered the opportunity to purchase a
22 Birkin handbag.

23 39. Defendants have designed the compensation structure of their Sales Associates to
24 ensure that they follow Defendants’ policy of only selling Birkin handbags to consumers who
25 have a sufficient purchase history of ancillary products. Hermès Sales Associates are paid by the
26 hour and also receive a commission on their sales. The commission rates paid by Defendants to
27 sales associates differ based on the type of product sold. Sales Associates are paid 3% on ancillary
28 products such as shoes, scarves, belts, jewelry and home goods; they are paid a 1.5% commission

1 on non-Birkin handbags, and they receive **no** commission whatsoever on the sale of Birkin
2 handbags. Although Hermès Sales Associates receive **no** commission on the most valuable and
3 sought-after products sold by their employer, they are instructed by Defendants to use Birkin
4 handbags as a way to coerce consumers to purchase ancillary products sold by Defendants (for
5 which the sales associates receive a 3% commission) in order to build-up the purchase history
6 required to be offered a Birkin handbag.

7 40. In this way, Defendants are able to use their Sales Associates to implement
8 Defendants' illegal tying arrangement.

9 **D. Plaintiffs' Attempts to Purchase a Birkin Handbag.**

10 41. Plaintiff Cavalleri has spent tens of thousands of dollars at Hermès, and had been
11 coerced into purchasing Ancillary Products in order to obtain access to Hermès Birkin bags, based
12 on the practices alleged herein. In or about September 2022, Plaintiff contacted Hermes about
13 purchasing another Birkin bag but was told specialty bags are going to "clients who have been
14 consistent in supporting our business." Plaintiff Cavalleri understood she would have to spend
15 more on Ancillary Products to obtain access to another Birkin Handbag. As a result, Plaintiff
16 Cavalleri was unable to purchase another Birkin Handbag in September 2022.

17 42. In or about 2023, Plaintiff Glinoga sought to purchase a Birkin Handbag, but was
18 counseled by Defendant's sales associates to purchase Ancillary Products in order to potentially
19 obtain a Berkin Handbag. Plaintiff Glinoga made multiple attempts to purchase a Birkin bag, but
20 was told on each occasion he needed to purchase other items and accessories. As a result, Plaintiff
21 Glinoga was unable to purchase a Birkin Handbag.

22 43. In or about the Fall of 2023, Plaintiff Yang sought to purchase a Birkin bag at
23 Defendants' San Francisco Hermès store. Plaintiff Yang was informed by Defendants she would
24 have to purchase Ancillary Products in order to obtain a Birkin bag and spent over \$10,000 on
25 Ancillary Products in order to purchase a Birkin bag. Plaintiffs are informed and believe, and on
26 that basis allege, that Defendants tied Plaintiffs' access to purchase a Birkin Handbag to a
27 requirement that they spend more on other items, pursuant to the unlawful tying arrangement
28 alleged herein. Plaintiffs have suffered injury as a result of Defendants' unlawful practice,

including but not limited to, being required to expend money to purchase Ancillary Products from Defendants. Plaintiffs have suffered injury as a result of Defendants' unlawful practice by being denied the opportunity to obtain a Birkin bag, which as set forth herein, can be resold at a higher price, because of Defendants' tying practices. Plaintiffs are informed and believe, and on that basis allege, that Defendants' unlawful practice also causes economic harm because it reduces competition in the market for the tied products. Plaintiffs are informed and believe, and on that basis allege, that Defendants' competitors in the tied markets cannot make sales for Ancillary Products that are purchased as a result of the coercive effect of Defendants' tying practice.

CLASS ACTION ALLEGATIONS

44. Plaintiffs bring this action on behalf of themselves and as representatives of all others who are similarly situated. Pursuant to Rules 23(a), (b)(2), and/or (b)(3) of the Federal Rules of Civil Procedure, Plaintiffs seek certification of the following class and subclass that are initially defined as follows:

Class: All residents of the United States who, from four years prior to the filing of this complaint until the date that notice of this class action is disseminated to the class, purchased or were asked to purchase Ancillary Products in order to purchase a Birkin Handbag (the "Class").

Subclass: All residents of California who, from four years prior to the filing of this complaint until the date that notice of this class action is disseminated to the class, purchased or were asked to purchase Ancillary Products in order to purchase a Birkin Handbag (the "Subclass").

45. For purposes of the above class definitions, "*Ancillary Products*" include shoes, scarves, belts, jewelry, home goods sold, and other products sold at Hermès' branded retail boutiques, for which Sales Agents receive a commission, but excludes any Birkin, Kelly or

1 Constance branded handbag. For purposes of the above class definitions, “*Birkin Handbag*” shall
2 consist of any handbag manufactured and sold by Hermès’ under the tradename of “Birkin” or
3 “Kelly.”

4 46. Excluded from each of the above classes are Defendants, including any entity in
5 which Defendants have a controlling interest, are a parent or subsidiary, or which are controlled
6 by Defendants, as well as the officers, directors, affiliates, legal representatives, predecessors,
7 successors, and assigns of Defendants. Also excluded are the judges and court personnel in this
8 case and any members of their immediate families.

9 47. Plaintiffs reserve the right to amend or modify the above class definition with
10 greater specificity or division into subclasses after having had an opportunity to conduct
11 discovery.

12 48. This action has been brought and may be properly maintained on behalf of the
13 classes proposed herein under Rule 23 of the Federal Rules of Civil Procedure.

14 49. Numerosity. Fed. R. Civ. P. 23(a)(1). The members of each class and subclass are
15 so numerous that joinder of all members is impractical. Plaintiffs are informed and believe that
16 there are thousands of members of each of the classes.

17 50. Commonality and Predominance. Fed. R. Civ. P. 23(a)(2) and (b)(3). There are
18 questions of law and fact common to each class, which predominate over any questions affecting
19 individual members of each respective class. These common questions of law and fact include,
20 without limitation:

- 21 a. Whether the Birkin handbags and Defendants’ ancillary products are separate and
22 distinct;
- 23 b. Whether Defendants implemented a policy to ensure that their sales associates
24 would only sell Birkin handbags to consumers with a sufficient purchase history of
25 Defendants’ ancillary products; and
- 26 c. Whether Defendants have sufficient economic power in the market for Birkin
27 handbags to coerce at least some consumers into purchasing Defendants’ ancillary
28 products;

1 d. Whether Defendants unlawfully tied the sale of Birkin handbags to the sale of
2 Ancillary products; and

3 e. Whether Plaintiffs and the members of the Class and Subclass have been damaged
4 by the wrongs complained of herein, and if so, the measure of those damages and
5 the nature and extent of other relief that should be afforded.

6 51. Typicality. Fed. R. Civ. P. 23 (a)(3). Plaintiffs' claims are typical of the claims of
7 the classes they seek to represent. Plaintiffs and all Class and Subclass members were exposed to
8 uniform practices and sustained injuries arising out of and caused by Defendants' conduct.

9 52. Adequacy. Fed. R. Civ. P. 23(a)(4). Plaintiffs are committed to the vigorous
10 prosecution of this action and have retained competent counsel experienced in the prosecution of
11 class actions. Accordingly, Plaintiffs are adequate representatives and will fairly and adequately
12 protect the interests of the Class and Subclass.

13 53. Superiority. Fed. R. Civ. P. 23(b)(3). A class action is superior to other available
14 methods for the fair and efficient adjudication of this controversy. Since the amount of each
15 individual Class and Subclass member's claim is small relative to the complexity of the litigation,
16 and due to the financial resources of Defendants, no Class member could afford to seek legal
17 redress individually for the claims alleged herein. Therefore, absent a class action, Class and
18 Subclass members will continue to suffer losses and Defendants' misconduct will proceed without
19 remedy. Even if Class or Subclass members themselves could afford such individual litigation,
20 the court system could not. Given the complex legal and factual issues involved, individualized
21 litigation would significantly increase the delay and expense to all parties and to the Court.
22 Individualized litigation would also create the potential for inconsistent or contradictory rulings.
23 By contrast, a class action presents far fewer management difficulties, allows claims to be heard
24 which might otherwise go unheard because of the relative expense of bringing individual lawsuits,
25 and provides the benefits of adjudication, economies of scale and comprehensive supervision by
26 a single court. Finally, Plaintiffs know of no difficulty that will be encountered in the management
27 of this litigation which would preclude its maintenance as a class action.

28 ///

FIRST CLAIM FOR RELIEF**Violation of the Sherman Act*****15 U.S.C. § 2*****(By Plaintiffs and the Class Against Defendants)**

54. Plaintiffs reallege and incorporate by reference the allegations contained in the preceding paragraphs, inclusive, of this Complaint, as though fully set forth herein and, to the extent necessary, plead this cause of action in the alternative.

55. Plaintiffs bring this claim individually and on behalf of the members of the Class against Defendants under federal law.

56. The Sherman Act prohibits “monopoliz[ation] of] any part of the trade or commerce among the several states, or with foreign nations.” 15 U.S.C. §2.

57. As detailed above, Defendants have unlawfully tied their Birkin handbags to their Ancillary Products through their sales associate incentive program. A market exists for both the tying and tied products, the Birkin handbag and ancillary products, respectively.

58. Defendants have sufficient economic power in the tying market, the luxury handbag market, to affect competition in the tied market, ancillary products. Defendants willfully and intentionally engage in predatory, exclusionary, and anticompetitive conduct with the design, purpose, and effect of unlawfully maintaining their market and/or monopoly power.

59. The availability of the Birkin handbags is conditioned on customers purchasing Ancillary Products from Defendants. In other words, consumers are coerced into purchasing Ancillary Products from Defendants by virtue of wanting to purchase the Birkin handbags. This is anticompetitive, tying conduct.

60. The tying product, the Birkin handbags, is separate and distinct from the tied products, the Ancillary Products required to be purchased by consumers, because consumers such as Plaintiffs have alternative options for the Ancillary Products and would prefer to choose among them independently from their decision to purchase Birkin handbags. Defendants’ unlawful tying arrangements thus ties two separate products that are in separate markets.

61. Defendants and the Birkin handbag have sufficient economic power in the market for luxury handbags to coerce at least some consumers into purchasing ancillary products from

Defendants. Defendants' conduct affects and has affected a substantial volume of commerce, far exceeding a de minimis amount.

62. Plaintiffs and the other members of the Class were harmed and Defendants' violation of the Sherman Act was a substantial factor in causing this harm.

SECOND CLAIM FOR RELIEF

Violation of the Cartwright Act

Cal. Bus. & Prof. Code, § 16720

(By Plaintiffs and the Subclass Against Defendants)

63. Plaintiffs reallege and incorporate by reference the allegations contained in the preceding paragraphs, inclusive, of this Complaint, as though fully set forth herein and, to the extent necessary, plead this cause of action in the alternative.

64. Plaintiffs bring this claim individually and on behalf of the members of the Subclass against Defendants under California law.

65. Defendants' acts and practices detailed herein violate the Cartwright Act, Cal. Bus. & Prof. Code § 16700 *et seq.*, which prohibits, *inter alia*, the combination of resources by two or more persons to restrain trade or commerce, or to prevent market competition. (Cal. Bus. & Prof. Code, §§ 16720, 16726.)

66. Under the Cartwright Act, a "combination" is formed when the anticompetitive conduct of a single firm coerces other market participants to involuntarily adhere to the anti-competitive scheme.

67. The Cartwright Act also makes it "unlawful for any person to lease or make a sale or contract for the sale of goods, merchandise, machinery, supplies, commodities for use within the State, or to fix a price charged therefor, or discount from, or rebate upon, such price, on the condition, agreement or understanding that the lessee or purchaser thereof shall not use or deal in the goods, merchandise, machinery, supplies, commodities, or services of a competitor or competitors of the lessor or seller, where the effect of such lease, sale, or contract for sale or such condition, agreement or understanding may be to substantially lessen competition or tend to create a monopoly in any line of trade or commerce in any section of the State." (Cal. Bus. & Prof. Code, § 16727.)

68. As detailed above, Defendants have unlawfully tied their Birkin handbags to their Ancillary Products through their Sales Associate incentive program.

69. Defendants have sufficient economic power in the tying market for luxury handbags, to affect competition in the tied market, Ancillary Products.

70. The availability of the Birkin handbags is conditioned on customers purchasing Ancillary Products from Defendants. In other words, consumers are coerced into purchasing Ancillary Products from Defendants by virtue of wanting to purchase the Birkin handbags.

71. The tying product, the Birkin handbags, is separate and distinct from the tied products, the Ancillary Products required to be purchased by consumers because consumers such as Plaintiffs have alternative options for the ancillary products and would prefer to choose among them independently from their decision to purchase Birkin handbags. Defendants' unlawful tying arrangements thus tie two separate products that are in separate markets.

72. Defendants have sufficient economic power in the market for luxury handbags to coerce at least some consumers into purchasing Ancillary Products from Defendants.

73. Plaintiffs and the other members of the Subclass were harmed and Defendants' violation of the Cartwright Act was a substantial factor in causing this harm.

WHEREFORE, Plaintiffs and the Class pray judgment against Defendants as hereafter set forth.

THIRD CLAIM FOR RELIEF

Violation of the Cartwright Act

Cal. Bus. & Prof. Code, § 16727

(By Plaintiffs and the Subclass Against Defendants)

74. Plaintiffs reallege and incorporate by reference the allegations contained in the preceding paragraphs, inclusive, of this Complaint, as though fully set forth herein and, to the extent necessary, plead this cause of action in the alternative.

75. Plaintiffs bring this claim individually and on behalf of the members of the Subclass against Defendants under California law.

76. Defendants' acts and practices detailed herein violate the Cartwright Act, Cal. Bus. & Prof. Code § 16727, which makes it "unlawful for any person to lease or make a sale or contract

1 for the sale of goods, merchandise, machinery, supplies, commodities for use within the State, or
2 to fix a price charged therefor, or discount from, or rebate upon, such price, on the condition,
3 agreement or understanding that the lessee or purchaser thereof shall not use or deal in the goods,
4 merchandise, machinery, supplies, commodities, or services of a competitor or competitors of the
5 lessor or seller, where the effect of such lease, sale, or contract for sale or such condition,
6 agreement or understanding may be to substantially lessen competition or tend to create a
7 monopoly in any line of trade or commerce in any section of the State.” (Cal. Bus. & Prof. Code,
8 § 16727.)

9 77. As detailed above, Defendants have unlawfully tied their Birkin handbags to their
10 ancillary products through their sales associate incentive program.

11 78. Defendants have sufficient economic power in the tying market for luxury handbags
12 to affect competition in the tied market, Ancillary Products.

13 79. The availability of the Birkin handbags is conditioned on customers purchasing
14 Ancillary Products from Defendants. In other words, consumers are coerced into purchasing
15 Ancillary Products from Defendants by virtue of wanting to purchase the Birkin handbags.

16 80. The tying product, the Birkin handbags, is separate and distinct from the tied
17 products, the Ancillary Products required to be purchased by consumers, because consumers such
18 as Plaintiffs have alternative options for the Ancillary Products and would prefer to choose among
19 them independently from their decision to purchase Birkin handbags. Defendants’ unlawful tying
20 arrangements thus ties two separate products that are in separate markets.

21 81. Defendants have sufficient economic power in the market for Birkin handbags to
22 coerce at least some consumers into purchasing ancillary products from Defendants.

23 82. Plaintiffs and the other members of the Subclass were harmed and Defendants’
24 violation of the Carwright Act was a substantial factor in causing this harm.

25 WHEREFORE, Plaintiffs and the Class pray judgment against Defendants as hereafter set
26 forth.

27 ///

28 ///

FOURTH CLAIM FOR RELIEF

Violation of California's Unfair Competition Law

Cal. Bus. & Prof. Code, § 17200, et seq.

(By Plaintiffs and the Subclass Against Defendants)

83. Plaintiffs reallege and incorporate by reference the allegations contained in the preceding paragraphs, inclusive, of this Complaint, as though fully set forth herein and, to the extent necessary, plead this cause of action in the alternative.

84. Plaintiffs bring this claim individually and on behalf of the members of the Subclass against Defendants under California law.

85. Plaintiffs have standing to pursue this cause of action as Plaintiffs have suffered injury in fact and have lost money or property as a result of Defendants' actions as delineated herein.

86. Defendants' scheme, as delineated herein, constitutes unlawful business practices in violation of California Business and Professions Code sections 17200, *et seq.*

87. Defendants' business practices, as alleged herein, violate the "unlawful" prong of California Business & Professions Code sections 17200, *et seq.* because Defendants' conduct violates, *inter alia*, the Cartwright Act, the Sherman Act, and Section 5(a)(1) of the FTC Act, 15 U.S.C. § 45(a)(1).

88. Defendants' business practices, as alleged herein, violate the "unfair" prong of California Business & Professions Code sections 17200, *et seq.* under both the "tethering" and "balancing" tests for unfair business practices.

89. Defendants' business practices, as alleged herein, are unfair under the "tethering" test because their conduct: (i) contravenes the policy and spirit of the Sherman Act and Cartwright Act's prohibitions on tying arrangements; (ii) results in effects comparable to, or the same as, a direct violation of these anti-tying prohibitions; and (iii) poses a significant threat to or harm on competition within the market.

90. Defendants' business practices, as alleged herein, violate the "balancing" test for unfair business practices because the harm to consumers outweighs the utility, if any, of the challenged conduct.

1 amounts awarded, as allowed by law;

2 5. An award of costs and attorneys' fees, as allowed by law; and

3 6. Such other or further relief as may be appropriate.

4
5 Dated: May 30, 2024

HAFFNER LAW PC

6
7 By: /s/ Joshua H. Haffner

8 Joshua H. Haffner

9 Alfredo Torrijos

Vahan Mikayelyan

10 SETAREH LAW GROUP

11 Shaun C. Setareh

Thomas A. Segal

12 *Counsel for Plaintiffs and the Proposed Class and*
13 *Subclass*

DEMAND FOR JURY TRIAL

Plaintiffs, individually and on behalf of all others similarly situated, hereby demand a trial by jury of any and all issues in this action so triable of right.

Dated: May 30, 2024

HAFFNER LAW PC

By: /s/ Joshua H. Haffner

Joshua H. Haffner

Alfredo Torrijos

Vahan Mikayelyan

SETAREH LAW GROUP

Shaun C. Setareh

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Counsel for Plaintiffs and the Proposed Class and Subclass