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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

PSALM POLLOCK, individually and
on behalf of all others similarly
situated,

Plaintiff,

v.

VIMEO.COM, INC.,

Defendant.

Case No. '23CV0602 L BLM

CLASS ACTION COMPLAINT

- (1) UNFAIR COMPETITION
- (2) CONVERSION
- (3) FALSE ADVERTISING
- (4) VIOLATION OF CALIFORNIA'S
CONSUMERS LEGAL REMEDIES
ACT
- (5) UNJUST ENRICHMENT /
RESTITUTION
- (6) NEGLIGENT
MISREPRESENTATION
- (7) FRAUD

DEMAND FOR JURY TRIAL

1 Plaintiff Psalm Pollock (“Plaintiff”) brings this action on behalf of herself and
2 all others similarly situated against Defendant Vimeo.com, Inc. (“Vimeo” or
3 “Defendant”). Plaintiff makes the following allegations pursuant to the investigation
4 of her counsel and upon information and belief, except as to allegations specifically
5 pertaining to herself and her counsel, which are based on personal knowledge.

6 INTRODUCTION

7 1. This is a putative class action lawsuit against Defendant for engaging in
8 an illegal “automatic renewal” scheme with respect to its subscription plans for
9 Vimeo-branded products and services that are available exclusively to consumers
10 who enroll in Defendant’s auto-renewal membership programs (collectively, the
11 “Vimeo Subscriptions,” enumerated below) through its website at
12 <https://www.vimeo.com/> (the “Vimeo Website”). Defendant is a leading industry
13 video hosting, sharing, and streaming platform that offers free memberships and
14 paid subscriptions that allow consumers to view, make, manage, upload, and share
15 video content. The paid Vimeo Subscriptions provide consumers with access to a
16 broader range of features than is available through a free membership, including
17 exclusive access to tools and features for video creation, editing, and broadcasting.
18 Relevant to Plaintiff’s allegations, when consumers sign up for the Vimeo
19 Subscriptions, Defendant actually enrolls consumers in a program that automatically
20 renews the Vimeo Subscriptions from month-to-month or year-to-year and results in
21 monthly or annual charges to the consumer’s credit card, debit card, or third-party
22 payment account (“Payment Method”). In doing so, Defendant fails to provide the
23 requisite disclosures and authorizations required to be made to California consumers
24 under California’s Automatic Renewal Law (“ARL”), Cal. Bus. Prof. Code §§
25 17600, *et seq.*

26 2. Through the Vimeo Website, Defendant markets, advertises, and sells
27 paid memberships to the Vimeo Subscriptions, which include, without limitation, the
28

1 following automatic renewal programs: Vimeo Starter¹; Vimeo Standard²; and
2 Vimeo Advanced.³ These subscription offerings are collectively referred to herein
3 as the “Vimeo Subscriptions.”

4 3. Consumers can sign up for Defendant’s Vimeo Subscriptions through
5 the Vimeo Website, and, in some cases, the Vimeo App(s). To do so, consumers

6
7 ¹ Starter Vimeo is a subscription-based automatic renewal program that provides
8 paying subscribers in the United States with additional features to the free Vimeo
9 Basic plan, including an increased ability to upload 60 videos, as opposed to 25
10 videos, as well as advanced video editing and management controls, analytics,
11 marketing and distribution capabilities, and privacy controls for \$144.00 billed on an
12 annual basis or \$20.00 billed on a monthly basis. The Starter Vimeo was previously
13 named “Plus”—both subscriptions are substantially similar in all material respects,
14 except that the “Plus” subscription offered an additional 250GB capacity until Vimeo
15 changed its subscriptions on or about August of 2022 from offering an increase in
16 storage capacity to increasing the total allowance number of videos uploaded,
17 regardless of their size. The “Plus” subscription was priced at \$84.00 billed on an
18 annual basis or \$12.00 billed on a monthly basis. When Vimeo changed its
19 subscriptions on or about August of 2022, it permitted existing subscribers to stay
20 within their subscriptions or change to the updated subscription offerings. *See*
21 *Vimeo, More simple, more value: Meet Vimeo’s new plans* (Aug. 22, 2022),
22 <https://vimeo.com/blog/post/new-vimeo-plans>.

23 ² Standard Vimeo includes all of the features of the Starter Vimeo, plus the ability to
24 upload 120 videos as well as providing additional video editing and management
25 controls, analytics, marketing and distribution capabilities, and privacy controls for
26 \$240.00 billed on an annual basis. The Standard Vimeo was previously named
27 “Pro”—both subscriptions are substantially similar in all material respects, except
28 that the “Pro” subscription offered an additional 1TB capacity which Vimeo changed
to the total number of videos that a user can upload, as discussed above, *see supra*
note 1. The “Pro” subscription was priced at \$240.00 billed on an annual basis. *See*
id.

³ Advanced Vimeo includes all of the features of the Starter Vimeo, plus the ability
to upload 240 videos, live streamlining and virtual events, as well as additional video
editing and management controls, analytics, marketing and distribution capabilities,
and privacy controls for \$780.00 billed on an annual basis. The Advanced Vimeo
was previously named “Business” and “Premium”—all three subscriptions are
substantially similar in all material respects, except that the “Business” and
“Premium” subscriptions offered an additional 5TB or 7TB capacity, respectively,
which Vimeo changed to the total number of videos that a user can upload, as
discussed above, *see supra* note 1. Prior to Vimeo’s changes of its current
subscriptions, only the “Premium” subscription supported live streaming and virtual
events. The “Business” subscription currently costs \$600.00 billed on an annual
basis, while the “Premium” subscription costs \$900.00 billed on an annual basis.

1 provide Defendant with their billing information, and Defendant then automatically
2 charges its customers' Payment Method as payments are due on a monthly or yearly
3 basis. Defendant is then able to unilaterally charge its customers renewal fees
4 without their consent, as it is in possession of its customers' Payment Information.
5 Thus, Defendant has made the deliberate decision to charge Plaintiff and other
6 similarly situated customers on a recurring basis, relying on consumer confusion and
7 inertia to retain customers, combat consumer churn, and bolster its revenues.

8 4. Pursuant to the ARL, online retailers who offer automatically renewing
9 subscriptions to California consumers must: (i) provide the complete automatic
10 renewal offer terms in a clear and conspicuous manner and in visual proximity to the
11 request for consent prior to completion of the enrollment process, *see* Cal. Bus. Prof.
12 Code § 17602(a)(1); (ii) obtain consumers' affirmative consent prior to charging
13 their Payment Methods in connection with the subscriptions, *see id.* § 17602(a)(2);
14 and (iii) provide an acknowledgment that includes the automatic renewal offer terms
15 and identifies a cost-effective, timely, and easy-to-use mechanism for consumers to
16 cancel their subscriptions, *see id.* §§ 17602(a)(3), 17602(c).

17 5. Those purchasing the Vimeo Subscriptions do so either by choosing a
18 seven-day free trial that automatically renews to a paid yearly subscription at the end
19 of the trial period, or a paid monthly or yearly subscription. As will be discussed
20 below, the enrollment process for a Vimeo Subscription on the Vimeo Website
21 uniformly violates each of the core requirements of the ARL. Defendant also makes
22 it exceedingly difficult and unnecessarily confusing for consumers to cancel their
23 Vimeo Subscriptions.

24 6. Specifically, Defendant systematically violates the ARL by: (i) failing to
25 present the automatic renewal offer terms in a clear and conspicuous manner and in
26 visual proximity to the request for consent to the offer before the subscription or
27 purchasing agreement is fulfilled, in violation of Section 17602(a)(1); (ii) charging
28 consumers' Payment Methods without first obtaining their affirmative consent to the

1 agreement containing the automatic renewal offer terms, in violation of Section
2 17602(a)(2); and (iii) failing to provide an acknowledgment that includes the
3 automatic renewal offer terms, cancellation policy, and information regarding how to
4 cancel in a manner that is capable of being retained by the consumer, in direct violation
5 of Section 17602(a)(3). *See* Cal. Bus. & Prof. Code §§ 17602(a)(1)-(3); *see also id.* §
6 17601(b)(1)-(5) (setting forth definition of “automatic renewal offer terms” as used in
7 Cal. Bus. Prof. Code § 17602(a)). The acknowledgment also fails to disclose a toll-
8 free telephone number or describe another cost-effective, timely, and easy-to-use
9 mechanism for cancellation, and in fact Defendant makes it exceedingly difficult and
10 unnecessarily confusing for consumers to cancel their Vimeo Subscriptions, in
11 violation of Section 17602(c) of the ARL.

12 7. As a result, all goods, wares, merchandise, or products sent to Plaintiff
13 and the Class under the automatic renewal of continuous service agreements are
14 deemed to be “unconditional gifts” under the ARL. *See* Cal. Bus. & Prof. Code §
15 17603.

16 8. For the foregoing reasons, Plaintiff brings this action individually and
17 on behalf of all California purchasers of any of Defendant’s Vimeo Subscriptions
18 from the Vimeo Website who, within the applicable statute of limitations period up
19 to and including the date of judgment in this action, incurred unauthorized fees for
20 the renewal of their Vimeo Subscriptions. Based on Defendant’s unlawful conduct,
21 Plaintiff seeks damages, restitution, declaratory relief, injunctive relief, and
22 reasonable attorneys’ fees and costs, for: (1) violation of California’s Unfair
23 Competition Law (“UCL”), Cal. Bus. & Prof. Code §§ 17200, *et seq.*; (2)
24 conversion; (3) violation of California’s False Advertising Law (“FAL”), Cal. Bus.
25 & Prof. Code §§ 17500, *et seq.*; (4) violation of California’s Consumers Legal
26 Remedies Act (“CLRA”), Cal. Civ. Code §§ 1750, *et seq.*; (5) unjust
27 enrichment/restitution; (6) negligent misrepresentation; and (7) fraud.

THE PARTIES

1
2 9. Plaintiff Psalm Pollock is a citizen of California, residing in San
3 Marcos, California.

4 10. Defendant Vimeo.com, Inc. (“Vimeo” or “Defendant”) is a Delaware
5 corporation with its corporate headquarters and principal place of business located at
6 330 W 34th St., New York, NY 10001. Vimeo is an American subscription video-
7 hosting and streaming platform and is one of the most popular streaming services in
8 the United States. Relevant here, Defendant offers access to certain exclusive
9 Vimeo content, products, and/or services on a contract or fee basis to customers who
10 enroll in the automatically renewing Vimeo Subscriptions. Defendant owns and
11 operates the Vimeo Subscriptions, which it markets to consumers through the Vimeo
12 Website. Defendant is responsible for the promotion, advertisement, and/or
13 marketing of the Vimeo Subscriptions, and it owns and operates the Vimeo Website.
14 Defendant sells – and, at all times during the Class Period, sold – the Vimeo
15 Subscriptions in California and has done business throughout California and the
16 United States. In connection with the Vimeo Subscriptions, Defendant made
17 automatic renewal offers to consumers in California and throughout the United
18 States via the Vimeo Website during the Class Period.

19 11. Plaintiff reserves the right to amend this Complaint to add different or
20 additional defendants, including without limitation any officer, director, employee,
21 supplier, or distributor of Defendant who has knowingly and willfully aided, abetted,
22 and/or conspired in the false and deceptive conduct alleged herein.

JURISDICTION AND VENUE

23
24 12. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §
25 1332(d)(2)(A), as amended by the Class Action Fairness Act of 2005 (“CAFA”),
26 because this case is a class action where the aggregate claims for all members of the
27 proposed class are in excess of \$5,000,000.00, exclusive of interests and costs, there
28

1 are over 100 members of the putative class, and Plaintiff, as well as most members
2 of the proposed class, is a citizen of a state different from Defendant.

3 13. This Court has personal jurisdiction over the parties because Plaintiff
4 resides in California, is a citizen of California, and submits to the jurisdiction of the
5 Court, and because Defendant has, at all times relevant hereto, systematically and
6 continually conducted, and continues to conduct, business in California, including
7 within this District. Defendant therefore has sufficient minimum contacts with this
8 state, including within this District and/or intentionally availed itself of the benefits
9 and privileges of the California consumer market through the promotion, marketing,
10 and sale of its products and/or services to residents within this District and
11 throughout California. Additionally, Defendant marketed and sold the Vimeo
12 Subscription to Plaintiff in this District.

13 14. Pursuant to 28 U.S.C. § 1391, this Court is the proper venue for this
14 action because a substantial part of the events, omissions, and acts giving rise to the
15 claims herein occurred in this District. Also, Plaintiff resides in this District and
16 purchased Defendant's Vimeo Subscription in this District. Moreover, Defendant
17 systematically conducts business in this District and throughout the State of
18 California, and it distributed, advertised, and sold the Vimeo Subscriptions to
19 Plaintiff and Class Members in this State and District.

20 **FACTUAL BACKGROUND**

21 **A. Background On The Subscription e-Commerce Industry**

22 15. The e-commerce subscription model is a business model in which
23 retailers provide ongoing goods or services “in exchange for regular payments from
24 the customer.”⁴ Subscription e-commerce services now target a wide range of
25 customers and cater to a variety of specific interests. Given the prevalence of online
26 and e-commerce retailers, subscription e-commerce has grown rapidly in popularity

27 ⁴ Core DNA, *How to Run an eCommerce Subscription Service: The Ultimate Guide*
28 (May 19, 2020), <https://www.coredna.com/blogs/ecommerce-subscription-services>.

1 in recent years. Indeed, the “subscription economy has grown more than 400% over
 2 the last 8.5 years as consumers have demonstrated a growing preference for access
 3 to subscription services[.]”⁵ Analysts at UBS predict that the subscription economy
 4 will expand into a \$1.5 trillion market by 2025, up from \$650 billion in 2020.⁶ That
 5 constitutes an average annual growth rate of 18%, which makes the subscription
 6 economy “one of the fastest-growing industries globally.”⁷

7 16. Defendant has been riding that wave. Defendant first launched the
 8 subscription model in 2008, when it introduced paid subscriptions offerings
 9 available through the Vimeo Website in various tiers (*i.e.*, the Vimeo Subscriptions),
 10 which give users, *inter alia*, higher weekly upload allowances and greater storage
 11 capacity.⁸ With Defendant’s acquisition of Livestream in 2017, Vimeo added

12 ⁵ Business Insider, *Taco Bell’s taco subscription is rolling out nationwide — here’s*
 13 *how to get it* (Jan. 6, 2022), [https://www.businessinsider.com/taco-bell-subscription-](https://www.businessinsider.com/taco-bell-subscription-launching-across-the-country-2022-1)
 14 [launching-across-the-country-2022-1](https://www.businessinsider.com/taco-bell-subscription-launching-across-the-country-2022-1) (internal quotation marks omitted).

15 ⁶ See UBS, *Investing in digital subscriptions* (Mar. 10, 2021),
 16 [https://www.ubs.com/global/en/wealth-management/our-](https://www.ubs.com/global/en/wealth-management/our-approach/marketnews/article.1525238.html)
 17 [approach/marketnews/article.1525238.html](https://www.ubs.com/global/en/wealth-management/our-approach/marketnews/article.1525238.html) (“[A]t close to USD 650 billion in 2020,
 we expect the subscription economy to expand into a USD 1.5 trillion market by
 2025, implying an average annual growth rate of 18%.”).

18 *See also* Subscribed, *UBS Declares: It’s Worth Investing in the Subscription*
 19 *Economy* (Apr. 17, 2021), [https://www.subscribed.com/read/news-and-editorial/ubs-](https://www.subscribed.com/read/news-and-editorial/ubs-declares-its-worth-investing-in-the-subscription-economy)
 20 [declares-its-worth-investing-in-the-subscription-economy](https://www.subscribed.com/read/news-and-editorial/ubs-declares-its-worth-investing-in-the-subscription-economy); Business 2 Community,
 21 *The Subscription Economy Is Booming Right Now. But Are You Reaping the Full*
Benefits? (Oct. 7, 2021), [https://www.business2community.com/ecommerce/the-](https://www.business2community.com/ecommerce/the-subscription-economy-is-booming-right-now-but-are-you-reaping-the-full-benefits-02434851)
[subscription-economy-is-booming-right-now-but-are-you-reaping-the-full-benefits-](https://www.business2community.com/ecommerce/the-subscription-economy-is-booming-right-now-but-are-you-reaping-the-full-benefits-02434851)
 02434851.

22 ⁷ UBS, *Investing in digital subscriptions* (Mar. 10, 2021), *supra* (“[Growth] was seen
 23 across many areas, including e-commerce, video streaming, gaming, cloud-based
 24 applications, etc.”); *see also* Juniper Research, *Subscriptions For Physical Goods To*
 25 *Overtake Digital Subscriptions By 2025; Growing To Over \$263bn Globally* (Oct.
 12, 2020), [https://www.juniperresearch.com/press/subscriptions-for-physical-goods-](https://www.juniperresearch.com/press/subscriptions-for-physical-goods-to-overtake)
 to-overtake (acknowledging “the significant lead the digital sector has had in th[e]
 area[of digital service subscriptions]”).

26 ⁸ See The Vimeo Blog, *Presenting Vimeo Plus!* (Oct. 16, 2008),
 27 <https://vimeo.com/blog/post/presenting-vimeo-plus>; *see also* Fortune, *How Vimeo*
 28 *became hipster YouTube* (Feb. 23, 2011), [https://fortune.com/2011/02/23/how-](https://fortune.com/2011/02/23/how-vimeo-became-hipster-youtube/)
[vimeo-became-hipster-youtube/](https://fortune.com/2011/02/23/how-vimeo-became-hipster-youtube/).

1 another tier to its paid subscription offerings – the “Premium” plan – which allows
2 unlimited uploads and streaming events through Vimeo Live.⁹ As of December
3 2021, the Vimeo Website had 260 million users and around 1.6 million
4 subscribers.¹⁰

5 17. The production, sale, and distribution of subscription-based products
6 and services is a booming industry that has exploded in popularity over the past few
7 years. According to *Forbes*, “[t]he subscription e-commerce market has grown by
8 more than 100% percent a year over the past five years, with the largest retailers
9 generating more than \$2.6B in sales in 2016, up from \$57.0M in 2011.”¹¹ Following
10 2016, market growth within the industry increased exponentially, reaching \$650
11 billion in 2020.¹² “As such, the financials of companies with subscription business
12 models[] ... improved dramatically in 2020 thanks to limited revenue volatility and
13 strong cash flow generation.”¹³ Thus, “[t]he share prices of most subscription
14 companies have performed well in recent years.”¹⁴

15 18. The expansion of the subscription e-commerce market shows no signs
16 of slowing. “We’re now in the subscriptions era, and the pandemic is accelerating
17 its takeover. During the COVID-19 lockdowns, many digital-based subscription
18 business models fared well due to their promise of convenience and strong business

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20 ⁹ See TechCrunch, *Vimeo acquires Livestream, launches its own live video product*
21 (Sep. 26, 2017), <https://techcrunch.com/2017/09/26/vimeo-acquires-livestream-launches-its-own-live-video-product/>.

22 ¹⁰ See U.S. Securities and Exchange Commission (“SEC”), *Vimeo, Inc. 2022 Annual*
23 *Report (Form 10-K)* (Feb. 27, 2023), <https://www.sec.gov/ix?doc=/Archives/edgar/data/1837686/000183768623000006/vimeo-20221231.htm>.

24 ¹¹ *Forbes*, *The State Of The Subscription Economy, 2018* (Mar. 4, 2018),
25 <https://www.forbes.com/sites/louiscolombus/2018/03/04/the-state-of-the-subscription-economy-2018/#6ad8251a53ef>.

26 ¹² See UBS, *Investing in digital subscriptions* (Mar. 10, 2021), *supra*.

27 ¹³ *Id.*

28 ¹⁴ *Id.*

1 continuity.”¹⁵ According to *The Washington Post*, “[s]ubscriptions boomed during
 2 the coronavirus pandemic as Americans largely stuck in shutdown mode flocked to
 3 digital entertainment[.] ... The subscription economy was on the rise before the
 4 pandemic, but its wider and deeper reach in nearly every industry is expected to last,
 5 even after the pandemic subsides in the United States.”¹⁶

6 19. However, as *The Washington Post* has noted, there are downsides
 7 associated with the subscription-based business model.¹⁷ While the subscription e-
 8 commerce market has low barriers and is thus easy to enter, it is considerably more
 9 difficult for retailers to dominate the market due to the “highly competitive prices
 10 and broad similarities among the leading players.”¹⁸ In particular, retailers struggle
 11 with the fact that “[c]hurn rates are high, [] and consumers quickly cancel services
 12 that don’t deliver superior end-to-end experiences.”¹⁹ Yet, retailers have also
 13 recognized that, where the recurring nature of the service, billing practices, or
 14 cancellation process is unclear or complicated, “consumers may lose interest but be
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17 ¹⁵ *Id.*

18 ¹⁶ *The Washington Post*, *Everything’s becoming a subscription, and the pandemic is*
 19 *partly to blame* (June 1, 2021),
 20 [https://www.washingtonpost.com/business/2021/06/01/subscription-boom-](https://www.washingtonpost.com/business/2021/06/01/subscription-boom-pandemic/)
 21 [pandemic/](https://www.washingtonpost.com/business/2021/06/01/subscription-boom-pandemic/) (noting that “e-commerce and entertainment subscriptions to sites such as
 Netflix, Hulu and Disney Plus made headlines during the pandemic for soaring
 growth”).

22 ¹⁷ *The Washington Post*, *Little-box retailing: Subscription services offer new*
 23 *possibilities to consumers, major outlets* (Apr. 7, 2014),
 24 [https://www.washingtonpost.com/business/economy/tktkttk/2014/04/07/f68135b6-](https://www.washingtonpost.com/business/economy/tktkttk/2014/04/07/f68135b6-a92b-11e3-8d62-419db477a0e6_story.html)
[a92b-11e3-8d62-419db477a0e6_story.html](https://www.washingtonpost.com/business/economy/tktkttk/2014/04/07/f68135b6-a92b-11e3-8d62-419db477a0e6_story.html).

25 ¹⁸ McKinsey & Company, *Thinking inside the subscription box: New research on e-*
 26 *commerce consumers* (Feb. 2018),
 27 [https://www.mckinsey.com/industries/technology-media-and-](https://www.mckinsey.com/industries/technology-media-and-telecommunications/our-insights/thinking-inside-the-subscription-box-new-research-on-ecommerce-consumers#0)
[telecommunications/our-insights/thinking-inside-the-subscription-box-new-research-](https://www.mckinsey.com/industries/technology-media-and-telecommunications/our-insights/thinking-inside-the-subscription-box-new-research-on-ecommerce-consumers#0)
[on-ecommerce-consumers#0](https://www.mckinsey.com/industries/technology-media-and-telecommunications/our-insights/thinking-inside-the-subscription-box-new-research-on-ecommerce-consumers#0).

28 ¹⁹ *Id.*

1 too harried to take the extra step of canceling their membership[s].”²⁰ As these
 2 companies have realized, “[t]he real money is in the inertia.”²¹ As a result, “[m]any
 3 e-commerce sites work with third-party vendors to implement more manipulative
 4 designs.”²² That is, to facilitate consumer inertia, a number of subscription e-
 5 commerce companies, including Defendant, “are now taking advantage of
 6 subscriptions in order to trick users into signing up for expensive and recurring
 7 plans. They do this by intentionally confusing users with the design and flow of
 8 their Website and Apps, *e.g.*, by making promises of ‘free trials’ that convert after
 9 only a matter of days, and other misleading tactics,” such as failure to fully disclose
 10 the terms of its automatic renewal programs.²³

11 20. To make matters worse, once enrolled in the subscription, “[o]ne of the
 12 biggest complaints consumers have about brand/retailers is that it’s often difficult to
 13 discontinue a subscription marketing plan.”²⁴ Moreover, “the rapid growth of
 14 subscriptions has created a host of challenges for the economy, far outpacing the
 15 government’s ability to scrutinize aggressive marketing practices and ensure that
 16

17 _____
 18 ²⁰ The Washington Post, *Little-box retailing: Subscription services offer new*
 19 *possibilities to consumers, major outlets* (Apr. 7, 2014),
 20 [https://www.washingtonpost.com/business/economy/tktktktk/2014/04/07/f68135b6-](https://www.washingtonpost.com/business/economy/tktktktk/2014/04/07/f68135b6-a92b-11e3-8d62-419db477a0e6_story.html)
 21 [a92b-11e3-8d62-419db477a0e6_story.html](https://www.washingtonpost.com/business/economy/tktktktk/2014/04/07/f68135b6-a92b-11e3-8d62-419db477a0e6_story.html).

22 ²¹ *Id.*

23 ²² Business Insider, *A new study from Princeton reveals how shopping websites use*
 24 *‘dark patterns’ to trick you into buying things you didn’t actually want* (Jun. 25,
 25 2019), [https://www.businessinsider.com/dark-patterns-online-shopping-princeton-](https://www.businessinsider.com/dark-patterns-online-shopping-princeton-2019-6)
 26 [2019-6](https://www.businessinsider.com/dark-patterns-online-shopping-princeton-2019-6).

27 ²³ TechCrunch, *Sneaky subscriptions are plaguing the App Store* (Oct. 15, 2018),
 28 <https://techcrunch.com/2018/10/15/sneaky-subscriptions-are-plaguing-the-app-store/>.

²⁴ The Washington Post, *Everything’s becoming a subscription, and the pandemic is*
 partly to blame (June 1, 2021), *supra* (“‘Subscription services are a sneaky wallet
 drain,’ said Angela Myers, 29, of Pittsburgh. ‘You keep signing up for things and
 they make it really hard to cancel.’”); *see also* New Media and Marketing, *The*
problem with subscription marketing (Mar. 17, 2019),
<https://www.newmediaandmarketing.com/the-problem-with-subscription-marketing/>.

1 consumers are being treated fairly, consumer advocates say.”²⁵ For instance,
 2 numerous companies, including Defendant, have resorted to using “dark patterns” on
 3 their e-commerce platforms. A dark pattern is “a user interface carefully crafted to
 4 trick users into doing things they might not otherwise do, such as ... signing up for
 5 recurring bills.”²⁶ Thus, although “Federal Trade Commission regulators are
 6 looking at ways to make it harder for companies to trap consumers into monthly
 7 subscriptions that drain their bank accounts[and] attempting to respond to a
 8 proliferation of abuses by some companies over the past few years[,]”²⁷ widespread
 9 utilization of misleading dark patterns and deliberate omissions persist.

10 21. Defendant has successfully implemented these tactics. “In 2021,
 11 software as a service Vimeo saw approximately 1.7 million paid subscribers. This
 12 represented an increase of more than 10 percent compared to the previous year when
 13 Vimeo had approximately 1.53 million paying users subscribing to their integrated
 14 video software solutions.”²⁸ Thus, Defendant has enjoyed rapid growth to the
 15 subscriber count of the Vimeo Subscriptions in light of the fact that “[o]verall time
 16 spent streaming has more than doubled since March[2020], when the U.S. and other
 17 countries largely shut down due to COVID-19.”²⁹

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 25 *Id.*

26 UX Design, *Dark patterns in UX: how designers should be responsible for their*
 27 *actions* (Apr. 15, 2018), [https://uxdesign.cc/dark-patterns-in-ux-design-](https://uxdesign.cc/dark-patterns-in-ux-design-7009a83b233c)
 28 [7009a83b233c](https://uxdesign.cc/dark-patterns-in-ux-design-7009a83b233c) (quoting UX designer Harry Brignull (PhD Cognitive Science), who
 29 coined the term “Dark Patters” in August 2010).

30 ²⁷ The Washington Post, *Everything’s becoming a subscription, and the pandemic is*
 31 *partly to blame* (June 1, 2021), *supra*.

32 ²⁸ Statista, *Number of Vimeo subscribers worldwide in 2020 and 2021* (March 10,
 33 2023), <https://www.statista.com/statistics/1300315/vimeo-global-paid-subscribers/>

34 ²⁹ Deadline, *Ad-Free Subscription Growth Outpaces Ad-Supported Fare During*
 35 *COVID-19* (May 29, 2020), [https://deadline.com/2020/05/subscription-streaming-](https://deadline.com/2020/05/subscription-streaming-growth-outpaces-free-ad-supported-during-covid-19-1202946438/)
 36 [growth-outpaces-free-ad-supported-during-covid-19-](https://deadline.com/2020/05/subscription-streaming-growth-outpaces-free-ad-supported-during-covid-19-1202946438/)
 37 [1202946438/](https://deadline.com/2020/05/subscription-streaming-growth-outpaces-free-ad-supported-during-covid-19-1202946438/)

1 **B. Defendant’s Dark Patterns And Online Consumer**
 2 **Complaints About the Vimeo Subscriptions**

3 22. Defendant’s recent growth in revenues and subscriber count with
 4 respect to its Vimeo Subscriptions coincides with a sharp decline in subscriber
 5 satisfaction as the Vimeo Subscriptions and the platforms from which they operate
 6 have become riddled with “dark patterns.” Specifically, Defendant has been using
 7 various types of dark patterns, including but not limited to “roach motel,”³⁰
 8 “misdirection,”³¹ and “forced continuity,”³² in order to prevent user unsubscription
 9 from the Vimeo Subscriptions by adopting complex cancellation procedures to
 10 increase the friction in the subscription cancellation process. Defendant’s utilization
 11 of these dark patterns – especially in conjunction with its failure to fully disclose the
 12 terms of its automatic-renewal programs (discussed further below) – has led to a
 13 reduction in churn rates by making it next to impossible for subscribers to cancel
 14 their Vimeo Subscriptions. It has further led to an increase in accidental or
 15 unintentional sign-ups by consumers for paid Vimeo Subscriptions, in effect
 16 increasing subscriber count and, thus, Defendant’s overall revenues from renewal
 17 fees.³³

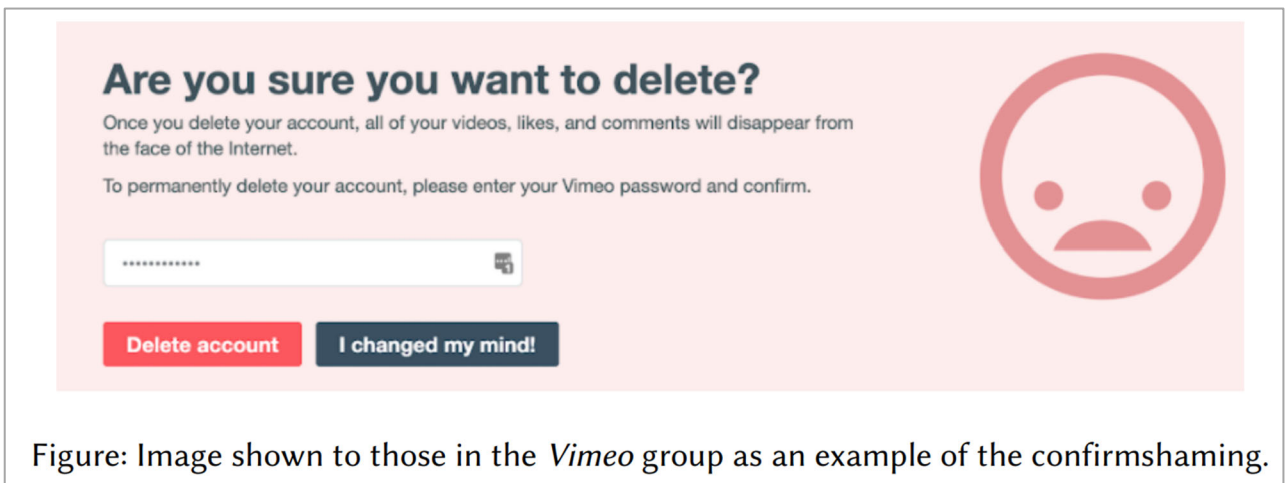
18 ³⁰ “Roach motel” refers to a “design [that] makes it very easy for [consumers] to get
 19 into a certain situation, but then makes it hard for [consumers] to get out of it (e.g. a
 20 subscription).” <https://www.darkpatterns.org/types-of-dark-pattern/roach-motel>.

21 ³¹ “Misdirection” is a type of dark pattern where a website’s “design purposefully
 22 focuses [customers’] attention on one thing in order to distract [them] attention from
 23 another.” In many cases, “[w]hat’s deceptive is the way [the website] presents
 24 [purchase] options: it uses misdirection to hide what is actually happening[.]”
 25 <https://www.darkpatterns.org/types-of-dark-pattern/misdirection>.

26 ³² One example of “forced continuity,” another type of dark pattern, is where
 27 customers’ sign up for a “free trial with a service[that] comes to an end and [their]
 28 credit card silently starts getting charged without any warning. [The subscriber is]
 are then not given an easy way to cancel the automatic renewal.”
<https://www.darkpatterns.org/types-of-dark-pattern/forced-continuity>.

³³ See Gizmodo, *Pervasive ‘Dark Patterns’ Are Fooling People Into Signing Up for Services They Don’t Want* (Sep. 15, 2022), <https://gizmodo.com/dark-patterns-ui-cancel-subscription-1849542166> (“As much as you think you have full control of

1 23. Vimeo’s use of dark patterns is so egregious that the company’s
2 practices are consistently used as examples to help UX students and writers
3 understand and explain dark patterns. For instance, a recent research study from the
4 University of Chicago explained that the Vimeo Website features a
5 “confirmshaming” design, where before “deleting a Vimeo account, the user is
6 confronted with an enlarged sad face during the final confirmation step, where the
7 users decides between a bright-red ‘Delete Account’ button or an enticing ‘I changed
8 my mind!’ button”³⁴



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16 Figure: Image shown to those in the *Vimeo* group as an example of the confirmshaming.

17 Another article illustrates how Defendant enrolls its users into paid
18 subscriptions through misdirection:

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21 you and your wallet, it’s getting increasingly difficult for anybody using an app or a
22 website to avoid getting suckered into surrendering your money or personal
23 information to misleading or tricky UI design. ... Tech companies and online
24 retailers [] lure users into signing up for subscription services while obscuring costs
or charges, then making it difficult to actually cancel. Some dark patterns include
confusing users in dense terms of service to obscure key limitations of products or
junk fees attached to their use.”)

25 ³⁴ Brennan Schaffner, Neha A. Lingareddy, and Marshini Chetty,
26 *Understanding Account Deletion and Relevant Dark Patterns on Social Media*
27 (Published November 1, 2022), Proceedings of the ACM on Human-Computer
28 Interaction, https://bpb-us-w2.wpmucdn.com/voices.uchicago.edu/dist/1/2826/files/2022/09/SM_Dark_Patterns_CSCW_2022_Camera_Ready.pdf.

1 There is another catch. Point your [] browser towards the
2 homepage and click on one of the many ‘Get Started’
3 buttons plastered throughout the page. As soon as you’ve
4 created an account, you’re asked to choose a subscription
5 plan, and there doesn’t appear to be a choice to go with the
6 free one (you have a couple of ‘start free trial’ buttons, but
7 those are linked to their respective subscriptions, and not
8 what you might be after). This is pure dark pattern stuff, a
9 cardinal UX sin.³⁵

10 In the same vein, writer and website design researcher, Caroline Sindere,
11 highlighted Defendant’s misdirection tactics to enroll users into paid subscriptions:
12 “Here’s a perfect example [of a] seemingly intentionally-created dark pattern from
13 Vimeo. In this dark pattern, there is an area, like a module, to call out different
14 plans. But if a user clicks on any of these modules, it sends the user to the bottom of
15 the page to re-select the pay plan choice where we see buttons promoting the paid
16 versions, whereas the free version is rendered to look just like plain text...This
17 seems to be an intentional choice; a designer and an engineer made this button look
18 invisible on the website...Imagine defending this design decision in a court of law;
19 technically, Vimeo has included the free/basic version even if it’s not ‘legible’ as a
20 choice to the user.”³⁶

21 24. Despite the above demonstrated consensus concerning how unsettling
22 Vimeo’s practices are, Defendant continues to employ these deceptive tactics to lure
23 consumers into enrolling, and remaining enrolled, in paid Vimeo Subscription
24 programs. Defendant’s conduct has drawn the attention and ire of customers across
25 the country, with countless angry customers taking to the Internet to voice their
26 discontent over Defendant’s broken promises.


27 ³⁵ TechRadar, *Vimeo Create review* (February 22, 2023),
28 <https://www.techradar.com/reviews/vimeo-create-review>


³⁶ Caroline Sanders, *Dark Patterns and Design Policy* (May 20, 2022),
 <https://points.datasociety.net/dark-patterns-and-design-policy-75d1a71fbda5>


1 25. For instance, numerous subscribers have left scathing reviews on the
2 Better Business Bureau website, complaining of confusion regarding obscured or
3 undisclosed subscription terms, such as Defendant’s unclear free trials, billing
4 practices and the confusing cancellation policy associated with the Vimeo
5 Subscriptions.³⁷


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28 ³⁷ <https://www.bbb.org/us/ny/new-york/profile/digital-media/vimeo-0121-87150174/customer-reviews>


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 **telsa e**
★☆☆☆☆ 12/09/2022
I tried to cancel 3 times before getting billed the 200\$. This company makes it so hard, even emailed legal. I took the standard and attempted to cancel before they start charging me 14\$ per month for something I do not need. Not only I was unable to but they charged the annual fee. I am currently on the phone with my bank to initiate a chargeback and will not let this go since they do not reply either. I would give 0 stars if I could


 **Sonya G.**
★☆☆☆☆ 12/05/2022
Impossibly bad; signed up for trial and was immediately thereafter injured and hospitalized. When i tried to cancel the \$826+, they refused all contact and the money has been deducted. I will seek the services of an attorney unless you can suggest other resources.

 **Melvin D**
★☆☆☆☆ 09/19/2022
They dont allow you any option to cancel after using a free trial , charged me over 900 . Filing against them with my credit union.

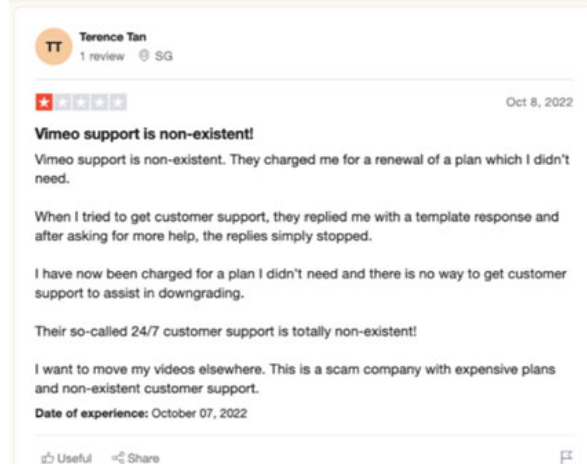
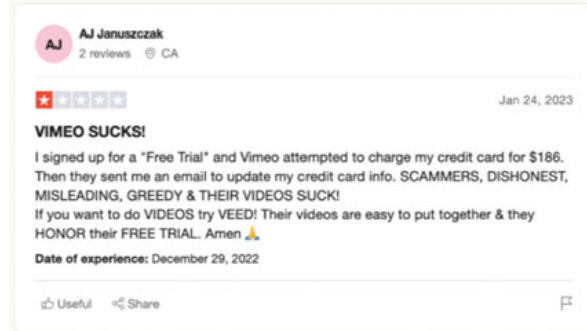
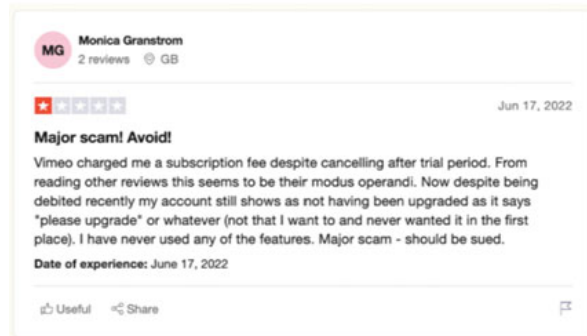
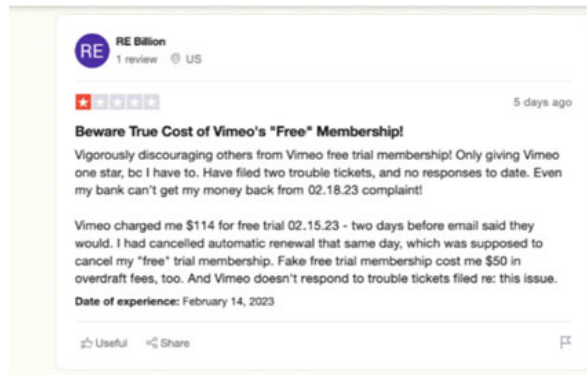
 **Karen M**
★☆☆☆☆ 07/14/2022
Vimeo is dishonest and almost impossible to reach. I signed up for a 30 day free trial with Vimeo assuming I was purchasing the right to WATCH videos, not post original work. There was no indication that Vimeo would charge me \$264.60 for a Pro subscription for a full year, when I only wanted one month of watching films on their site. Vimeo's website makes contacting the company almost impossible. The telephone # listed here on the BBB page is no longer associated with Vimeo. The person who answered my call asserted angrily that he could not help me reach them. I tried to cancel my subscription before the automatic renewal date, but they never acknowledged my request. I want the \$264.60 charge refunded minus a the price of a single month of viewing privilege.

 **Robert F**
★☆☆☆☆ 07/01/2022
\$49.99 charged to my credit card. I have no idea what this is for. I did not ask to this. Cannot get any answers from their web site. You have to do everything on line with your email name and password, which I don't have because I never set anything up. And how did they get my credit card info????? Lots and lots of words but no way to get thru to anyone. Will try to work with my credit card company (who accepted this charge without any approval from me) to get this resolved.

 **Keneetra L**
★☆☆☆☆ 01/06/2022
Very unprofessional service and questionable ethics. They will tell you there is a trial period then charge you before its up and charge you for a plan your not even on. I was charged 3 times in a week \$240.00 for a plan I didn't have and then you can't speak to anyone just email. Once you caught on to their non sense they stop responding. They charged me for a pro plan and with pro plan you can not speak to anyone just email. So they charged me for pro plan then downgraded me to basic so now basically I am emailing asking to be refunded with no response back getting anywhere.


 **Don G.**
★☆☆☆☆ 12/05/2021
Deceptive billing. Plan states "\$50/month" ... and in small print below, states "billed annually". I thought I was purchasing a monthly plan. Very deceptive. Avoid this company at all cost!


1 26. Other subscribers to the Vimeo Subscriptions left similar complaints on
 2 the Trust Pilot’s website.³⁸



28 ³⁸ <https://www.trustpilot.com/review/www.vimeo.com>

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 **T. Walker**
2 reviews US


 May 28, 2022


NO WAY TO CANCEL VIMEO SUBSCRIPTION

I cannot cancel my Vimeo subscription. They are billing me for auto-renewal and offer no way to cancel, Apparently they used to have a "cancel subscription" button but no longer. Their "help" phone number demands a pin which I don't have and doubt would help if I did have it, Their "chat" window loops back to tell you to use the non-existent "cancel subscription" button.

Date of experience: May 28, 2022

 Useful 1  Share 




 **Peter Thomas**
1 review US


 Mar 9, 2022


I just got charged \$240.00 for a...

I just got charged \$240.00 for a "renewal fee", for Vimeo Pro. I don't think I signed up for that, I think I signed up for email updates and made an account in case I decided to use it after more research. There's been no way to get a human being or even a responsive AI on the line, and the New York area code phone number that was with the bank charge goes to a "not in service" recording. It's plain to see I am only one of very many people who are very dissatisfied with the service called Vimeo.

Date of experience: March 09, 2022

 Useful 4  Share 




 **Rory Bresnihan**
9 reviews IE

 Nov 12, 2022

Devious Practices.

Somewhere along the line this company became really devious - Hidden costs, no email warnings of auto-renewal, extortionist costs etc. Avoid if you can.

Date of experience: November 11, 2022

 Useful  Share 



 **Mary-Anne Madden**
1 review PT

 Aug 27, 2022

Vimeo charged me a subscription fee and...

Vimeo charged me a subscription fee and I didn't even sign up for it. I can't get onto anyone to get a refund. A total scam

Date of experience: August 27, 2022

 Useful  Share 

1 27. The above reviews are just a sampling of numerous negative reviews
2 consumers have left regarding Defendant’s Vimeo Subscriptions and the unclear
3 cancellation policies and confusing billing associated with the Subscriptions. As
4 discussed below, the above online consumer complaints reveal a widespread pattern
5 of uniform unlawful conduct by Defendant, underscoring the artifice devised and
6 employed by Defendant to lure and deceive millions of consumers into enrolling,
7 and remaining enrolled, in their paid Vimeo Subscription programs.

8 **C. California’s Automatic Renewal Law**

9 28. In 2010, the California Legislature enacted the Automatic Renewal Law
10 (“ARL”), Cal. Bus. & Prof. Code §§ 17600, *et seq.*, with the intent to “end the
11 practice of ongoing charging of consumer credit or debit cards or third party
12 payment accounts without the consumers’ explicit consent for ongoing shipments of
13 a product or ongoing deliveries of service.” Cal. Bus. & Prof. Code § 17600
14 (statement of legislative intent). More recently, in 2018, California’s Senate Bill
15 313 amended Section 17602 of the ARL, adding new requirements meant to increase
16 consumer protections for, among other things, orders that contain free trial and
17 promotional pricing, and subscription agreements entered into online. The
18 California Legislature again amended the ARL in 2022, adding additional notice,
19 disclosure, and cancellation requirements. *See* Cal. Bus. & Prof. Code §§
20 17602(a)(4)(A)-(E), 17602(b)(1)-(2), 17602(d)(1)-(3).

21 29. The ARL makes it “unlawful for any business making an automatic
22 renewal or continuous service offer to a consumer in this state to do any of the
23 following:”

24 (1) Fail to present the automatic renewal offer terms or
25 continuous service offer terms in a clear and conspicuous
26 manner before the subscription or purchasing agreement is
27 fulfilled and in visual proximity[] ... to the request for
28 consent to the offer. If the offer also includes a free gift or
trial, the offer shall include a clear and conspicuous
explanation of the price that will be charged after the trial

1 ends or the manner in which the subscription or purchasing
2 agreement pricing will change upon conclusion of the trial.

3 (2) Charge the consumer's credit or debit card, or the
4 consumer's account with a third party, for an automatic
5 renewal or continuous service without first obtaining the
6 consumer's affirmative consent to the agreement
7 containing the automatic renewal offer terms or continuous
8 service offer terms, including the terms of an automatic
9 renewal offer or continuous service offer that is made at a
10 promotional or discounted price for a limited period of
11 time.

12 (3) Fail to provide an acknowledgment that includes the
13 automatic renewal offer terms or continuous service offer
14 terms, cancellation policy, and information regarding how
15 to cancel in a manner that is capable of being retained by
16 the consumer. If the automatic renewal offer or continuous
17 service offer includes a free gift or trial, the business shall
18 also disclose in the acknowledgment how to cancel, and
19 allow the consumer to cancel, the automatic renewal or
20 continuous service before the consumer pays for the goods
21 or services.

22 Cal. Bus. & Prof. Code § 17602(a)(1)-(3).

23 30. As of 2018, the updated ARL also requires that, prior to the completion
24 of the initial order for the automatic renewal or continuous service, sellers must
25 explain the price to be charged when the promotion or free trial ends. *See* Cal. Bus.
26 & Prof. Code § 17602(a)(1), *supra*. If the initial offer is at a promotional price that
27 is only for a limited time and will increase later, the seller must obtain consumer
28 consent to the non-discounted price prior to billing. *See id.* Sellers must also notify
consumers in the acknowledgment about how to cancel the free trial before they are
charged. *See* Cal. Bus. & Prof. Code § 17602(a)(3), *supra*.

31. Section 17602(c) of the ARL further provides:

A business that makes an automatic renewal offer or
continuous service offer **shall provide a toll-free
telephone number, electronic mail address**, a postal
address if the seller directly bills the consumer, **or it shall
provide another cost-effective, timely, and easy-to-use**

1 **mechanism for cancellation** that shall be described in the
2 acknowledgment specified in paragraph (3) of subdivision
3 (a).

4 Cal. Bus. & Prof. Code § 17602(c). (emphasis added).

5 32. Additionally, following the 2018 and 2022 amendments to the ARL, the
6 updated law also requires e-commerce sellers, doing business in California, to allow
7 online cancellation of auto-renewing memberships or recurring purchases that were
8 initiated online. Specifically, Section 17602(d) provides:

9 [A] business that allows a consumer to accept an automatic
10 renewal or continuous service offer online shall allow a
11 consumer to terminate the automatic renewal or continuous
12 service *exclusively online, at will, and without engaging*
13 *any further steps that obstruct or delay the consumer’s*
 ability to terminate the automatic renewal or continuous
 service immediately.

14 Cal. Bus. & Prof. Code § 17602(d)(1) (emphasis added).

15 33. The updated ARL further specifies that a seller who provides an
16 automatic offer “shall provide a method of termination that is online in the form of
17 either of the following: (A) A prominently located direct link or button which may
18 be located within either a customer account or profile, or within either device or user
19 settings[; or] (B) By an immediately accessible termination email formatted and
20 provided by the business that a consumer can send to the business without additional
21 information.” Cal. Bus. & Prof. Code § 17602(d)(1)(A)-(B).

22 34. Section 17601(a) of the ARL defines the term “Automatic renewal” as a
23 “plan or arrangement in which a paid subscription or purchasing agreement is
24 automatically renewed at the end of a definite term for a subsequent term.” Cal.
25 Bus. & Prof. Code § 17601(a).

26 35. Section 17601(b) of the ARL defines the term “Automatic renewal
27 offer terms” as “the following clear and conspicuous disclosures: (1) That the
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1 subscription or purchasing agreement will continue until the consumer cancels. (2)
2 The description of the cancellation policy that applies to the offer. (3) The recurring
3 charges that will be charged to the consumer’s credit or debit card or payment
4 account with a third party as part of the automatic renewal plan or arrangement, and
5 that the amount of the charge may change, if that is the case, and the amount to
6 which the charge will change, if known. (4) The length of the automatic renewal
7 term or that the service is continuous, unless the length of the term is chosen by the
8 consumer. (5) The minimum purchase obligation, if any.” Cal. Bus. & Prof. Code §
9 17601(b).

10 36. Pursuant to Section 17601(c) of the ARL, “clear and conspicuous” or
11 “clearly and conspicuously” means “in larger type than the surrounding text, or in
12 contrasting type, font, or color to the surrounding text of the same size, or set off
13 from the surrounding text of the same size by symbol ls or other marks, in a manner
14 that clearly calls attention to the language.” Cal. Bus. & Prof. Code § 17601(c).

15 37. Finally, Section 17603 of the ARL provides that where a “business
16 sends any goods, wares, merchandise, or products to a consumer, under a continuous
17 service agreement or automatic renewal of a purchase, without first obtaining the
18 consumer’s affirmative consent[.]” the material sent will be deemed “an
19 unconditional gift to the consumer, who may use or dispose of the same in any
20 manner he or she sees fit without any obligation whatsoever on the consumer’s part
21 to the business[.]” Cal. Bus. & Prof. Code § 17603.

22 38. As alleged below, Defendant’s practices on the Vimeo Website
23 systematically violates Sections 17602(a)(1), 17602(a)(2), 17602(a)(3), 17602(c),
24 and 17602(d) of the ARL.

25 **D. Defendant’s Business: The Vimeo Subscription Enrollment**
26 **Process**

27 39. At all relevant times, Defendant offered, via the Vimeo Website,
28 various Vimeo Subscriptions for access to exclusive Vimeo content, products, and/or

1 services on a contract or fee basis. The Vimeo Subscriptions are offered on a
2 recurring basis for monthly or yearly renewal terms, and all plans automatically
3 renew at the end of the defined renewal term unless the subscriber cancels. For
4 example, when customers sign up for a straight-to-paid Starter Vimeo Standard,
5 after the initial one-year renewal term, their subscriptions are automatically renewed
6 and their Payment Methods are charged the full standard recurring amount
7 associated with Vimeo Standard, currently \$144 (exclusive of tax), for the next year,
8 and every year thereafter if they do not cancel. Likewise, when customers sign up
9 for a straight-to-paid Standard Vimeo Subscription, after the initial one-year renewal
10 term, their subscriptions are automatically renewed and their Payment Methods are
11 charged the full standard recurring amount associated with Vimeo Standard,
12 currently \$240³⁹ (exclusive of tax), for the next year, and every year thereafter if
13 they do not cancel. Similarly, when customers sign up for a straight-to-paid
14 Advanced Vimeo Standard, after the initial one-year renewal term, their
15 subscriptions are automatically renewed and their Payment Methods are charged the
16 full standard recurring amount associated with Vimeo Standard, currently \$780
17 (exclusive of tax), for the next year, and every year thereafter if they do not cancel.
18 Defendant also offers each of the Vimeo Subscription plans on a free trial for a
19 limited period of time⁴⁰, in which case, at the end of the initial 7-day trial period,
20 customers' subscriptions are converted to paid annual Vimeo Subscriptions and their
21 Payment Methods are automatically charged the full renewal rate associated with
22 that subscription plan for the next billing period, and every subsequent renewal term
23 thereafter if they do not cancel. Defendant's Vimeo Subscriptions constitute

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26 ³⁹ Prior to August of 2022, the Standard Vimeo Subscription was called "Pro" and
cost the same amount charged on a yearly basis. See footnote 2, *supra*.

27 ⁴⁰ See <https://vimeo.com/upgrade> ("Get started with a free trial of any annual plan,
28 risk-free.").

1 automatic renewal and/or continuous service plans or arrangements for the purposes
2 of Cal. Bus. & Prof. Code § 17601.

3 40. Consumers can sign up for one of Defendant’s Vimeo Subscription
4 plans through the Vimeo Website. Defendant automatically enrolls customers who
5 purchase a straight-to-paid Vimeo Subscription via the Vimeo Website in their
6 chosen Vimeo Subscription program going forward, by default. In addition,
7 customers may sign up for several of the Vimeo Subscriptions on a free-trial and/or
8 promotional basis (*i.e.*, at a discounted renewal rate), for a limited time.
9 Nevertheless, customers that enroll in a free trial or discounted rate must, like those
10 that sign up for a straight-to-paid Vimeo Subscription, provide Defendant their
11 payment information at the time of enrollment. Customers’ free trial subscriptions
12 automatically convert to paid yearly subscriptions at the end of the trial period, at
13 which point those users are also automatically enrolled by Defendant in a paid
14 Vimeo Subscription program, and as such their Payment Methods are automatically
15 charged by Defendant on a recurring yearly basis in the amount of the full standard
16 or time-limited promotional rate associated with that program, continuing
17 indefinitely until the customer takes affirmative steps to cancel.

18 41. To sign up for one of Defendant’s Vimeo Subscriptions, the consumer
19 must first select a program. From the Vimeo Website, prospective subscribers can
20 review features of – and find links to the individual enrollment webpages for – each
21 of Defendant’s subscription offerings, including the Vimeo Subscriptions at issue.
22 After selecting one of the Vimeo Subscriptions, consumers who do not already have
23 a free account on the Vimeo Website are prompted to create one by inputting their
24 name and email address, and selecting a password. After these steps, consumers are
25 directed to the final webpage of the enrollment process (the “Checkout Page”) where
26 prospective subscribers are prompted to input their payment information and are
27 then invited to complete their purchase by selecting the blue button at the bottom of
28

1 the webpage.⁴¹ For the purposes of the ARL and this Complaint, the “relevant
2 portion of the Checkout Page” refers to the text of that portion of the Checkout Page
3 that appears “in visual proximity to the request for consent to the offer,” which in
4 this case pertains to text nearby this final blue button at the bottom of the Checkout
5 Page that customers must click in order to complete the checkout process.

6 42. By way of example, when a consumer signs up for a Standard Vimeo
7 Subscription on a free trial basis, the “relevant portion of the Checkout Page” refers
8 to the disclosures contained in the block of gray text immediately above the blue
9 “Start free trial” checkout button at the bottom of the page (*i.e.*, the “request for
10 consent”), which contains the following language and appearance (red box added for
11 emphasis):

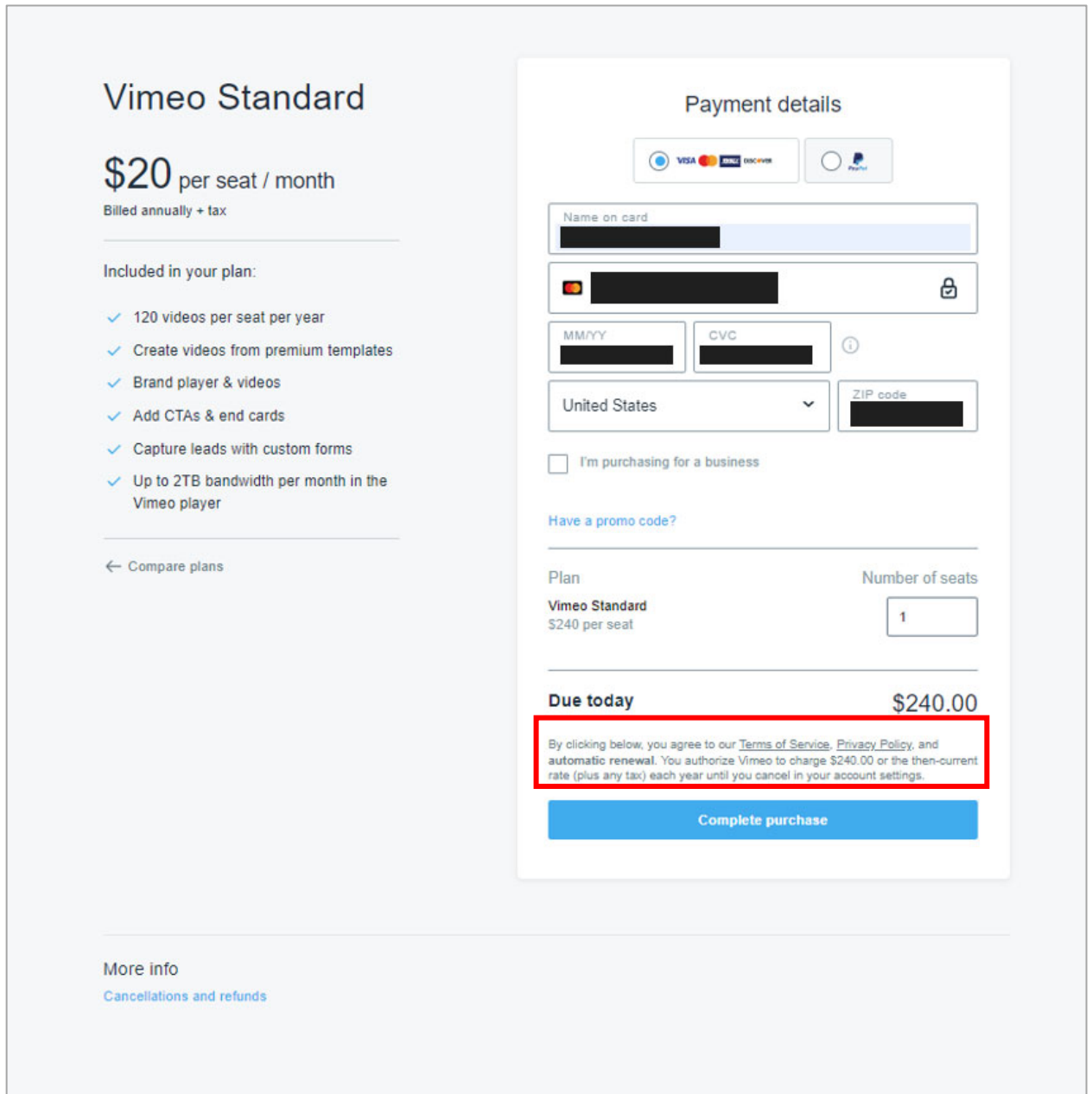
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27 ⁴¹ Defendant requires all users to register or create an account in order to utilize
28 features on the Vimeo Website, so prospective subscribers to any of the Vimeo
Subscriptions must either create a Vimeo account or “log in” to a preexisting
Vimeo account before they can reach the Checkout Page.

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The screenshot displays the Vimeo Standard checkout interface. On the left, a promotional section titled "Free 7-day trial Vimeo Standard" includes FAQs about card charging and cancellation, and details about the trial's features. On the right, a "Card details" form is shown, which is partially obscured by black redaction boxes. Below the form, a table lists the "Vimeo Standard" plan at "\$240 per seat" with "1" seat selected. A price summary shows "Due today" for "\$240.00" and "\$0" for the trial period. A red rectangular box highlights a disclaimer: "By clicking below, you agree to our Terms of Service, Privacy Policy, and automatic renewal. After the free trial ends on Apr 10, 2023, your subscription begins and you authorize Vimeo to charge \$240.00 or the then-current rate (plus any tax) each year until you cancel in your account settings." A blue "Start free trial" button is located at the bottom of the form area.

43. Similarly, when a consumer signs up for a straight-to-paid Standard Vimeo Subscription, the “relevant portion of the Checkout Page” refers to the disclosures contained in the block of gray text immediately above the blue “Start free trial” checkout button at the bottom of the page (*i.e.*, the “request for consent”), which contains the following language and appearance (red box added for emphasis):

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44. The layout and text of the Checkout Page for each of the paid Vimeo Subscriptions (including, without limitation, the Starter, Standard, and Advanced plans, and including both the free trial and straight-to-paid offerings) is aesthetically and functionally similar to the Checkout Page for the above-illustrated Vimeo Standard Subscription.⁴² In all cases, the relevant portion of the Checkout Page fails

⁴² As discussed in footnotes 1-3, *supra*, Defendant changed the Vimeo Subscription names on or about August of 2022. Although some of the prices changed after

1 to adequately disclose the automatic renewal terms associated with Defendant’s
2 Vimeo Subscriptions in the manner required by law.

3 45. Regardless of how the consumer subscribes (via the Vimeo Website, on
4 either its desktop or mobile format), and irrespective of which Vimeo Subscription
5 program (whether Starter, Standard, or Advanced) or of which specific plan the
6 subscriber selects (whether the straight-to-paid, free trial, or promotional
7 subscription options, and whether for monthly or annual renewal periods),
8 Defendant fails to disclose the full terms of its auto-renewal programs either before
9 or after checkout, and it never requires the individual consumer to read or
10 affirmatively agree to any terms of service, *i.e.*, by requiring consumers to click a
11 checkbox next to the automatic renewal offer terms before consumers complete the
12 checkout process and submit their orders for their Vimeo Subscriptions.

13 Consequently, Defendant uniformly fails to obtain any form of consent from – or
14 even provide effective notice to – their subscribers before charging consumers’
15 Payment Methods on a recurring basis.

16 **E. Defendant Violates California’s Automatic Renewal**
17 **Law**

18 46. At all relevant times, Defendant failed to comply with the ARL in three
19 ways: (i) Defendant failed to present the automatic renewal offer terms in a clear and
20 conspicuous manner and in visual proximity to the request for consent to the offer
21 before the subscription or purchasing agreement was fulfilled, in violation of Cal.
22 Bus. & Prof. Code § 17602(a)(1); (ii) Defendant charged Plaintiff’s and Class
23 members’ Payment Methods without first obtaining their affirmative consent to the
24 agreement containing the automatic renewal offer terms, in violation of Cal. Bus. &
25 Prof. Code § 17602(a)(2); and (iii) Defendant failed to provide an acknowledgment
26 that included the automatic renewal offer terms, cancellation policy, and information

27 Defendant updated the Vimeo Subscriptions, their core features, as well as the
28 Vimeo Website’s checkout process design and disclosures remained substantially
identical throughout the Class Period.

1 regarding how to cancel in a manner that is capable of being retained by the
 2 consumer, in violation of Cal. Bus. & Prof. Code §§ 17602(a)(3). Defendant also
 3 fails to provide an acknowledgment that discloses a toll-free telephone number or
 4 describes another cost-effective, timely, and easy-to-use mechanism for cancellation,
 5 and, in fact, Defendant makes it exceedingly difficult and unnecessarily confusing
 6 for consumers to cancel their Vimeo Subscriptions, in violation of Cal. Bus. & Prof.
 7 Code §§ 17602(c) and 17602(d).

8 i. **Defendant Fails To Clearly And Conspicuously**
 9 **Present The Vimeo Subscription Terms Before**
 10 **The Subscription Agreement Is Fulfilled And In**
 11 **Visual Proximity To The Request For Consent To**
 12 **The Offer.**

12 47. First, the Checkout Page for the Vimeo Subscriptions does not present
 13 the complete “automatic renewal offer terms[,]” as defined by Cal. Bus. & Prof.
 14 Code § 17601(b), in violation of Section 17602(a)(1) of the ARL. Specifically,
 15 using the pictured free trial and straight-to-paid Standard Checkout Pages above as
 16 examples, the Checkout Page does not clearly and conspicuously disclose that “the
 17 subscription or purchasing agreement will continue until the consumer cancels.”
 18 Cal. Bus. & Prof. Code § 17601(b)(1). For instance, although the relevant portion of
 19 the above-pictured Checkout Pages indicate – albeit vaguely (which is to say, not
 20 “clearly” within the meaning of Cal. Bus. & Prof. Code § 17601(c)) – that “[b]y
 21 clicking below, [consumers] agree to [Vimeo’s] ... automatic renewal” and
 22 “authorize Vimeo to charge \$240.00 or the then-current rate (plus any tax) each year
 23 until [the consumer] cancel[s] in [his or her] account settings,” *see supra* ¶¶ 42-43,
 24 this information is presented in tiny, grey font without emphasis or distinction, and it
 25 is provided in a *smaller* size text as compared to most other text of the Checkout
 26 Page. Indeed, much of the other text of the Checkout Page is significantly larger
 27 and, in effect, more visually prominent than any disclosures contained in this block
 28 of text above the blue “Start free trial” button (for free trial enrollments) or blue

1 “Complete purchase”⁴³ button (for straight-to-paid enrollments) of the Checkout
 2 Page, which renders this tiny text in the relevant portion of the Checkout Page
 3 considerably less conspicuous by comparison and ultimately distracts the eye away
 4 from such small text and towards the larger text featured on the majority of the
 5 Checkout Page. Further, the disclosure in the relevant portion of the Checkout Page
 6 is presented alongside – and thus, rendered even more inconspicuous by – other,
 7 unrelated disclosures of the same font type, size, and color featured within the same
 8 block of text (*i.e.*, the “Terms of Service” and “Privacy Policy”), which provides
 9 information not required by the ARL, and it is not presented in contrasting font type
 10 or color to the immediately surrounding text, emphasized, or otherwise set off from
 11 any other text of the Checkout Page by symbols, marks, graphics, or any other
 12 distinguishing factors that clearly call attention to the language. In other words, the
 13 disclosure was presented in such a way that it could be, and was, easily overlooked,
 14 and is therefore not “clear and conspicuous” as defined by the ARL, *see* Cal. Bus. &
 15 Prof. Code § 17601(c).⁴⁴ As such, with respect to the Vimeo Subscription,

16 ⁴³ For the straight-to-paid Vimeo Subscriptions the identical blue button states
 17 “Complete purchase.”

18 ⁴⁴ Based on these features, this block of text placed near the bottom of the Checkout
 19 Page and all statements and disclosures buried therein constitute “fine print.” *See*
 20 *Fine Print*, Black’s Law Dictionary (9th ed. 2009) (defining “fine print” as “[t]he
 21 part of an agreement or document—usu. in small, light print that is not easily
 22 noticeable—referring to disclaimers, restrictions, or limitations.”); *see also Fine*
 23 *Print*, The Law Dictionary, *available at* <https://thelawdictionary.org/fine-print/>
 24 (defining “Fine Print” as “[a] small type size that contracts and policy are sometimes
 25 printed in” and noting that “[t]he print is small as it relates to rules, deductions,
 26 exlusions, and reductions of a policy” and that “[i]t is smaller print than the main
 27 part of the document”). **That it is exactly the type of deceptive practice that the**
 28 **California Legislature sought to deter and penalize when it enacted the ARL.**
See Turnier v. Bed Bath & Beyond Inc., 517 F. Supp. 3d 1132, 1140 n.6 (S.D. Cal.
 2021) (ARL Case) (“Notably, the practice that led to ARL was the inclusion of
 autorenewal terms in fine print.”); *see also Berman v. Freedom Fin. Network, LLC*,
 30 F.4th 849, 857 (9th Cir. 2022) (“Website users are entitled to assume that
 important provisions—such as those that disclose the existence of proposed
 contractual terms—will be prominently displayed, not buried in fine print. Because
 ‘online providers have complete control over the design of their websites,’ ‘the onus

1 Defendant fails to disclose “[t]hat the subscription or purchasing agreement will
2 continue until the consumer cancels,” *id.* § 17601(b)(1), in the manner required by
3 statute, *see id.* § 17602(a)(1).

4 48. Similarly, the relevant portion of the Checkout Pages for the Vimeo
5 Subscriptions does not adequately disclose the recurring amount to be charged to the
6 subscriber’s Payment Method each billing period. For instance, while the relevant
7 portion of the Checkout Pages shown above indicate that subscribers will be charged
8 “\$240.00 or the then-current rate (plus any tax) ... each year,” *see supra* ¶¶ 42-43,
9 this statement is presented in the same block of tiny text at the bottom of the
10 Checkout Page as the disclosure discussed in the paragraph above. Thus, this
11 statement suffers from the same inconspicuousness and related deficiencies as noted
12 above in that it is also buried in the fine print of the Checkout Page and is likewise
13 easily overlooked. Therefore, the disclosure is not “clear and conspicuous” as
14 defined by the ARL, *see Cal. Bus. & Prof. Code* § 17601(c). In fact, the statement is
15 rendered even more inconspicuous by the much larger price figure provided above
16 the block of text in question and immediately next to bold text stating “Due today.”
17 Further, this larger price figure also fails to satisfy the ARL because it only places
18 consumers on notice of the amount to be charged to their Payment Methods on that
19 particular day, but provides no indication of the *recurring* amount to be charged to
20 the subscriber’s Payment Method *each billing period*. Moreover, the recurring
21 monthly price listed (albeit inconspicuously) is \$240 per year, but, as discussed
22 below, the actual recurring monthly price charged to Plaintiff’s and other California
23 consumers’ Payment Methods in connection with the Standard Vimeo Subscription
24 was \$261.30, which includes the full membership fee *and \$21.30 in tax*. Thus, even
25 _____
26 must be on website owners to put users on notice of the terms to which they wish to
27 bind consumers.”) (internal citations omitted). As a result, any disclosures contained
28 within the relevant portion of Defendant’s Checkout Pages – which bury incomplete,
unclear, and inconspicuous disclosures regarding required terms in fine print – fail to
comply with the ARL.

1 had this required automatic renewal offer term been conspicuously disclosed in the
2 Checkout Page (it was not), the disclosure as written provides false information, and,
3 based on that statement, a subscriber is not placed on notice of the precise recurring
4 amount that will be automatically withdrawn from his or her Payment Method each
5 renewal period in connection with the Vimeo Subscriptions. Thus, Defendant fails
6 to provide notice of “[t]he recurring charges that will be charged to the consumer’s
7 [Payment Method] as part of the automatic renewal plan or arrangement, and that the
8 amount of the charge may change, if that is the case, and the amount to which the
9 charge will change, if known[,]” *see* Cal. Bus. & Prof. Code § 17601(b)(3), in
10 violation of Section § 17602(a)(1) of the ARL.

11 49. Additionally, the Checkout Pages for the Vimeo Subscriptions also fail
12 to adequately disclose the length of the automatic renewal term associated with the
13 Vimeo Subscriptions, *see* Cal. Bus. & Prof. Code §§ 17601(b)(4), 17602(a)(1). In
14 particular, although the relevant portion of the Checkout Pages shown above indicate
15 that the recurring price associated with the Vimeo Subscriptions will be charged to
16 subscribers’ Payment Methods by Defendant “each year,” *see supra* ¶¶ 42-43, this
17 statement is presented in the same block of tiny text at the bottom of the Checkout
18 Page as the text concerning automatic renewal feature and recurring price discussed
19 above. Thus, this statement suffers from the same inconspicuousness and related
20 deficiencies as noted above in that it is also buried in the fine print of the Checkout
21 Page and is likewise easily overlooked. Therefore, the disclosure is not “clear and
22 conspicuous” as defined by the ARL, *see* Cal. Bus. & Prof. Code § 17601(c).
23 Further, even if this text were conspicuous and made unequivocally clear to
24 reasonable consumers that the Vimeo’s Subscriptions are subject to yearly automatic
25 renewal terms (it is neither), the precise date of a given year or billing period that the
26 consumer will be charged in connection with the Vimeo Subscriptions remains
27 unclear. For instance, it is not clear whether “year” refers to first day of each
28 calendar, in which case the Vimeo Subscriptions could renew for another year in as

1 little as 3 months after a subscriber enrolls in September, or every 12 months:
2 without regard to the specific calendar date of enrollment. As a result, the exact
3 length of each renewal term is ambiguous in terms of start and end date—and this
4 information is also necessary for consumers to successfully affect cancellation
5 because, as noted above, consumers must cancel their Vimeo Subscription before the
6 renewal date listed on [their] billing settings page.” *See supra* ¶ 50 & n.53. Further,
7 with respect to the Checkout Page for a *free trial* Vimeo Subscription shown above,
8 *see supra* ¶ 42, this problem is compounded by the fact that the Checkout Page fails
9 to clarify whether, for purposes of determining a precise renewal date, the yearly
10 period associated with the consumer’s Vimeo Subscription commences on the date
11 the consumer first enrolled in the free trial, the date the free trial expired, or the first
12 date of the consumer’s paid Vimeo Subscription (after expiration of the free trial).
13 Similarly, with respect to the Checkout Page for a *straight-to-paid* Vimeo
14 Subscription shown above, *see supra* ¶ 43, this problem is compounded by the fact
15 that the upper left corner of the Checkout Page contains text stating, in large font,
16 “\$12 per seat / month” (misleadingly indicating that the Vimeo Subscription is
17 subject to a monthly renewal period) with much smaller text beneath it
18 inconspicuously stating “Billed annually + tax.” Given the inconspicuousness of the
19 “Billed annually” text, it fails to remedy any confusion caused by the much larger
20 “\$12 per seat / month” text above it. Accordingly, a reasonable consumer would
21 find that statement unclear in regards to the length of the applicable automatic
22 renewal term, and, more specifically, when formal cancellation is required in order
23 to stop Defendant from automatically charging renewal fees to customers’ Payment
24 Methods on a recurring basis. If consumers are not on notice of the precise date that
25 their Vimeo Subscriptions will renew and their Payment Methods will be charged
26 each year or billing period, they cannot, as a practical matter, affect cancellation
27 before that date. As such, Defendant fails to disclose “[t]he length of the automatic
28

1 renewal term or that the service is continuous” in the manner required by the ARL.
 2 Cal. Bus. & Prof. Code § 17601(b)(4); *see also id.* § 17602(a)(1).⁴⁵

3 50. Moreover, for each of the Vimeo Subscriptions, Defendant also fails to
 4 present a complete “description of the cancellation policy that applies to the offer[,]”
 5 *see* Cal. Bus. & Prof. Code § 17601(b)(2). For instance, although the relevant
 6 portion of the pictured Checkout Pages above note that the Vimeo Subscription is an
 7 “automatic renewal” and that “Vimeo [will] charge [the consumer] ... each year
 8 until [he or she] cancel[s] in [his or her] account settings,” *see supra* ¶¶ 42-43, this
 9 disclosure does not inform consumers *precisely* by *when* they must cancel (either
 10 their free trial or paid membership) in order to avoid further charges. Indeed, the
 11 Checkout Page for the Vimeo Subscriptions does not explain to consumers that
 12 consumers “can cancel [their] subscription[s] at any time before the renewal date
 13 listed on [their] billing settings page” and that they “will not be charged for the next
 14 billing period if [they] cancel in advance,” as is set forth on other pages of the
 15 Vimeo Website.⁴⁶ In fact, in light of this policy, the Checkout Page creates further
 16 confusion by stating in the upper left column of the Checkout Page that consumers
 17 can cancel their subscription “whenever [they] want”; based on the existence of a
 18 cancellation deadline, this contradictory text in the upper left column of the

19 _____
 20 ⁴⁵ While additional information concerning the consumer’s next billing date
 21 following expiration of the free trial may be provided elsewhere on the Checkout
 22 Page shown above, that information does not clarify the exact meaning of “every
 23 year” as used in the Checkout Page such that consumers are informed, as a general
 24 matter, as to the length of the applicable renewal cycle or are able to reliably
 calculate their precise billing date for subsequent year. Additionally, to the extent
 this information does not appear in the block of text immediately above the “Start
 free trial” button, it is not presented “in visual proximity ... to the request for consent
 to the offer.” Cal. Bus. & Prof. Code § 17602(a)(1).

25 ⁴⁶ Vimeo Help Center, *Cancel my subscription*, [https://help.vimeo.com/hc/en-](https://help.vimeo.com/hc/en-us/articles/12425433330577-Cancel-my-subscription#01GHY8GZX4EC5GM0BBH77H960Y)
 26 [us/articles/12425433330577-Cancel-my-](https://help.vimeo.com/hc/en-us/articles/12425433330577-Cancel-my-subscription#01GHY8GZX4EC5GM0BBH77H960Y)
 27 [subscription#01GHY8GZX4EC5GM0BBH77H960Y](https://help.vimeo.com/hc/en-us/articles/12425433330577-Cancel-my-subscription#01GHY8GZX4EC5GM0BBH77H960Y); *see also Vimeo Terms of*
 28 *Service* (last updated Sep. 1, 2022), <https://vimeo.com/terms> (“[S]ubscriptions
 automatically renew at the end of each subscription period unless canceled
 beforehand.”).

1 Checkout Page is patently inaccurate. The Checkout Page also fails to disclose
 2 Defendant’s policies that “[w]hen [consumers] cancel [their Vimeo S]ubscription[s,]
 3 ... [they] will not be automatically refunded for past charges but [] may be eligible
 4 for a refund,”⁴⁷ and that “subscribers who purchase plans directly from Vimeo may
 5 cancel and receive a full refund of their initial purchase within thirty (30) days after
 6 purchasing an annual plan and five (5) days after purchasing a monthly plan,”⁴⁸
 7 terms that are also disclosed in other areas of the Vimeo Website. Further, the
 8 Checkout Page fails to disclose the consequences of cancellation, including, *inter*
 9 *alia*, the fact that “[w]hen a subscription ends, the account will[] ... revert to a free
 10 membership or will be deleted[and a]ny content in the account may be deleted to
 11 comply with the limitations of the new account status,” as is also disclosed on other
 12 pages of the Vimeo Website.⁴⁹ Nor does the Checkout Page disclose precisely *how*
 13 to cancel, as is specified in other webpages of the Vimeo Website.⁵⁰ Indeed, the
 14 Checkout Pages do not mention that, in order to cancel, subscribers must: (1) find
 15 and click on their “Settings” tab (which is unintuitively placed in a drop-down menu
 16 that appears after hovering on an emoji face lacking any descriptive text); (2) find
 17 and click on the “Billing” tab (which again provides another drop-down menu); (3)
 18 find and click the “Cancel trial” or “Cancel subscription” link (which is located at
 19 the bottom right corner of the page in minuscule red font without emphasis); (4)

20 ⁴⁷ *Id.*

21 ⁴⁸ *Vimeo Terms of Service* (last updated Sep. 1, 2022), *supra*.

22 ⁴⁹ *Id.*; see also Vimeo Help Center, *Lapsing from paid membership to Basic*
 23 *membership*, [https://help.vimeo.com/hc/en-us/articles/115006635407-Lapsing-from-](https://help.vimeo.com/hc/en-us/articles/115006635407-Lapsing-from-paid-membership-to-Basic-membership)
 24 [paid-membership-to-Basic-membership](https://help.vimeo.com/hc/en-us/articles/115006635407-Lapsing-from-paid-membership-to-Basic-membership) (“If your total video storage exceeds 5GB,
 25 you will lose the ability to upload new content upon lapsing. You can free up
 26 storage on your existing account by deleting some of your older videos, rough cuts,
 or backups until you are under the 5GB cap. ... If your paid membership lapses to Basic, any source files that were stored on Vimeo will be deleted after 60 days and cannot be recovered.”) (emphasis added).

27 ⁵⁰ See Vimeo Help Center, *Cancel my subscription*, *supra* (describing multi-step
 28 process for “cancel[ing] the automatic renewal of [a paid Vimeo S]ubscription or free trial”).

1 click on the “Turn off auto-renew” button after reading Vimeo’s
 2 “confirmshaming”⁵¹ and “misdirection”⁵²-featuring pop-up screen; and (5) find and
 3 click the “Turn off auto-renew” button (which is deceptively designed with a
 4 transparent fill juxtaposed to a more prominent blue “Return to settings” button), as
 5 set forth elsewhere in the Vimeo Website.⁵³ An image of the pop-up screen
 6 featuring “confirmshaming” and “misdirection” dark patterns, shown to consumers
 7 at step 4 of the cancellation process, is depicted in the screenshot below:

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 16 ⁵¹ “Confirmshaming” is one type of dark pattern plaguing various aspects of the
 17 Vimeo Website, including the online cancellation mechanism. *See supra* ¶ 23; *see*
 18 *also* Built In, *What Is Confirmshaming and Why Should You Avoid It?* (Sep. 21,
 19 2021), <https://builtin.com/design-ux/confirmshaming> (“According to researchers at
 20 Princeton University and the University of Chicago, ... you might [] spot [the
 21 confirmshaming dark pattern] in unsubscribe processes[.] ... Confirmshaming is an
 22 example of a dark pattern, another term that Brignull originated to describe interface
 23 designs that manipulate or coerce users.”); Deceptive Design, *Confirmshaming*,
 24 <https://www.deceptive.design/types/confirmshaming> (“Confirmshaming is the act of
 25 guiltling the user into opting in to something. The option to decline is worded in such
 26 a way as to shame the user into compliance.”).

27 ⁵² “Misdirection” is another type of dark pattern plaguing various aspects of the
 28 Vimeo Website, including the online cancellation mechanism. *See supra* ¶ 22 n.35
 (“‘Misdirection’ is a type of dark pattern where a website’s ‘design purposefully
 focuses [customers’] attention on one thing in order to distract [them] attention from
 another.’ In many cases, [w]hat’s deceptive is the way [the website] presents
 [purchase] options: it uses misdirection to hide what is actually happening[.]”)
 (citation omitted).

⁵³ Vimeo, *Help Center, Cancel my subscription*, <https://help.vimeo.com/hc/en-us/articles/360057598871-Cancel-my-subscription#01GHY8H1S742N4HETADB0M9G09> (last accessed March 17, 2023).

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One quick thing

Which option best describes why you want to turn off auto-renew?

- I'd rather pay manually
- I don't use Vimeo enough (e.g. seasonally or one-off projects)
- My videos aren't getting enough view, likes, or comments
- Billing/credit card issue
- My membership doesn't have all the features I need
- My membership is too expensive
- Other (please tell us more)

Return to settingsTurn off auto-renew



51. In sum, neither of the statements discussed above concerning cancellation constitutes a fulsome or clear description of Defendant’s cancellation policy. Indeed, other webpages of the Vimeo Website beyond the Checkout Page – none of which are shown to subscribers during the enrollment process – are much clearer about the cancellation deadline, process, and the consequences of cancellation (or failing to cancel the Vimeo Subscriptions in advance of the cut-off deadline). These undisclosed terms concerning how and when to cancel, the consequences of doing so, and the availability of a refund for consumers that cancel within a specified period after enrollment constitute material aspects of Defendant’s cancellation policy. At no point during the life of her Vimeo Subscription was

1 Plaintiff required or even prompted to navigate to or otherwise examine any of the
 2 terms disclosed on any other page of the Vimeo Website, aside from the Checkout
 3 Page. Thus, Plaintiff was not aware of the omitted and inadequately disclosed
 4 automatic renewal terms discussed above. Yet, prior to checkout, Defendant was
 5 obligated by law to place consumers on notice of these aspects of Defendant’s
 6 cancellation policy in accordance with the ARL, which requires that companies
 7 provide such information “in visual proximity to the request for consent to the
 8 [automatic renewal] offer.” Cal. Bus. & Prof. Code § 17602(a)(1); *see also id.* §
 9 17601(b)(2). It is not enough that the cancellation policy may be set forth on the
 10 hyperlinked pages located elsewhere on the Vimeo Website; the ARL requires that
 11 Defendant present its full cancellation policy directly on the Checkout Page – and it
 12 must further do so “clearly and conspicuously,” *id.* § 17601(c), and with the
 13 requisite proximity (*i.e.*, they must appear in the block of text immediately above the
 14 final blue checkout button on the bottom of that page), *see id.* § 17602(a)(1) – so as
 15 to allow the consumer to read and review the applicable offer terms immediately
 16 prior to purchase.⁵⁴ However, Defendant failed, and continues to fail, to satisfy that
 17 requirement, in violation of Section 17602(a)(1) of the ARL.

18 ⁵⁴ Indeed, reference to hyperlinks leading to required disclosures set forth on other
 19 pages of the Vimeo Website is not tantamount to disclosure of them on the Checkout
 20 Page, as the ARL requires. *See Turnier v. Bed Bath & Beyond Inc.*, 517 F. Supp. 3d
 21 1132, 1139-40 (S.D. Cal. 2021) (ARL Case) (“Defendant ... argues the required
 22 terms were accessible through a hyperlink that was a few centimeters from the
 23 request for consent. **But the terms themselves—not the access point to them—**
 24 **need to be in visual proximity to the request.**”) (emphasis added). Since
 25 businesses’ “inclusion of autorenewal terms in fine print” was “the practice that led
 26 to ARL” in the first place, and “[t]he use of a hyperlink to the terms presents a
 27 similar practice,” *id.* at 1140 n.6 (citation omitted), any required disclosures that may
 28 be contained in the hyperlinked webpages—*but not provided directly on the*
Checkout Page itself—cannot satisfy the ARL. *See also id.* at 1139-40 (“The
 required terms do not appear on the webpage that contains the request for consent.
 Defendant argues it is common to use a hyperlink to terms and conditions, and that
 practice is sufficient to form a valid contract. That might be true. However, it does
not change what is required under ARL (the disclosure of terms in a specific manner
and location). **Given the terms appear nowhere near the request for consent,**

1 52. As a result of Defendant’s missing and otherwise deficient pre-purchase
2 disclosures, when Plaintiff selected and enrolled in her Vimeo Subscription, she was
3 unaware that Defendant enrolled her in an “automatic renewal” program under
4 which her Vimeo Subscription would renew each year and result in continuous
5 yearly automatic renewal charges to her Payment Method, unless and until she
6 effectively canceled the subscription.

7 **ii. Defendant Fails To Obtain Consumers’**
8 **Affirmative Consent To The Automatic Renewal**
9 **Terms Associated With The Vimeo Subscriptions.**

10 53. Second, at no point during the checkout process does Defendant require
11 consumers to read or affirmatively agree to any terms of service associated with their
12 Cricut Subscriptions, *i.e.*, by requiring consumers to select or click a “checkbox”
13 next to the automatic renewal offer terms to complete the checkout process.
14 Accordingly, when Defendant automatically renews customers’ Vimeo
15 Subscriptions, Defendant charges consumers’ Payment Methods without first
16 obtaining their affirmative consent to the agreement containing the automatic
17 renewal offer terms, in violation of Cal. Bus. & Prof. Code § 17602(a)(2).

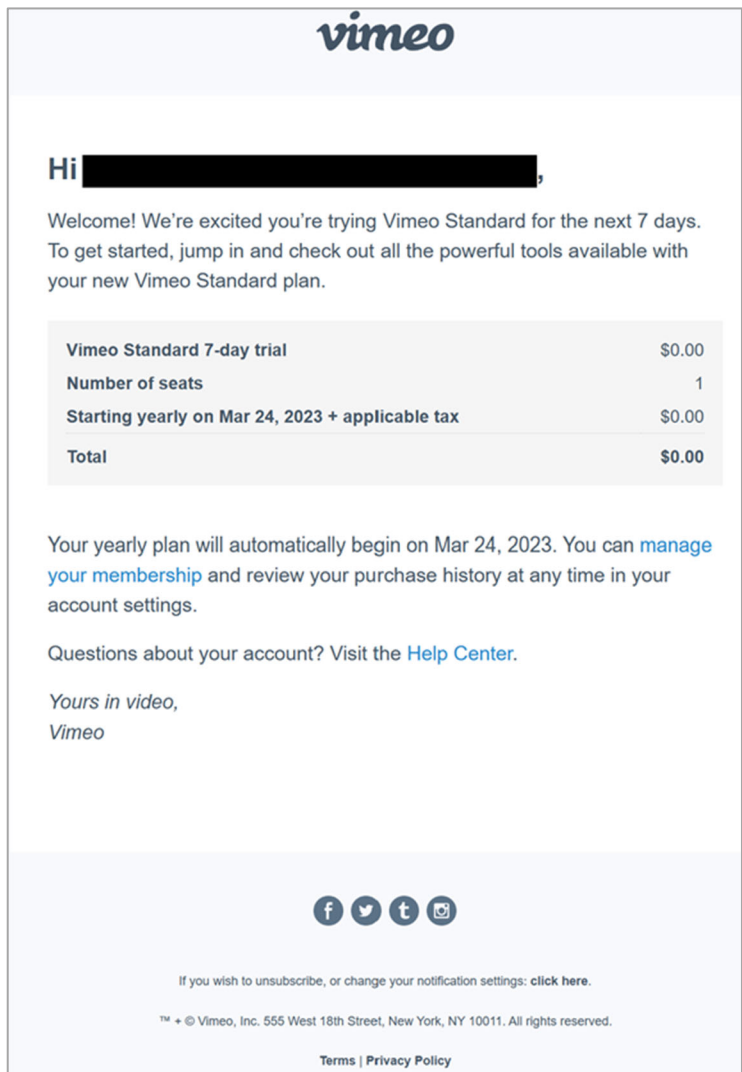
18 **iii. Defendant Fails To Provide A Post-Checkout**
19 **Acknowledgment That Clearly And**
20 **Conspicuously Discloses The Required Vimeo**
21 **Subscription Offer Terms.**

22 54. Finally, after Plaintiff and the members of the Class subscribed to one
23 of Defendant’s Vimeo Subscriptions, Defendant sent to Plaintiff and the Class email
24 follow-ups regarding their purchases (the “Acknowledgment Email”).

25 55. By way of example, at least as of March 2023, consumers who enroll in
26 the *free trial* for the Standard Vimeo Subscription received an email from Defendant
27 upon completion of the checkout process. The subject line of the Acknowledgment

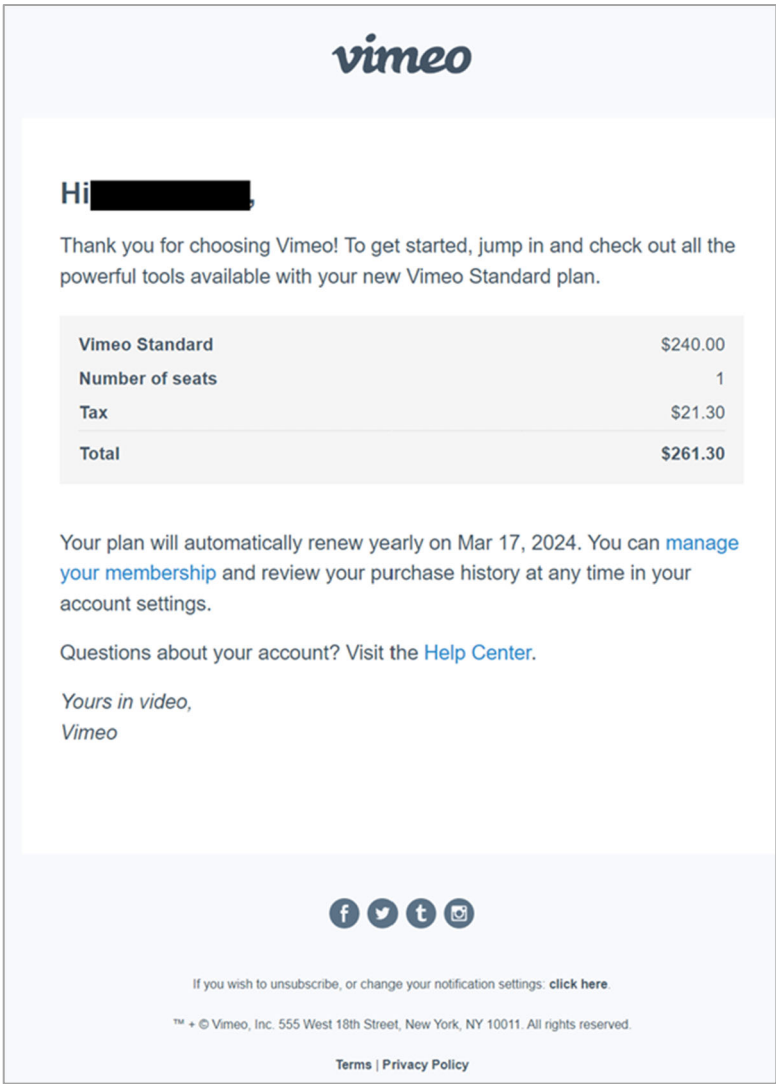
28 **Plaintiff has plausibly alleged Defendant did not comply with section**
17602(a)(1).”) (emphasis added and internal citations omitted).

1 Email that Defendant sent to Vimeo Standard subscribers, stated: “Your Vimeo
 2 Standard trial has begun.” The body of the Acknowledgment Email contained, in
 3 relevant part, the following text and images:



56. Similarly, at least as of March 2023, when consumers sign up for the
 straight-to-paid Standard Vimeo Subscription, Defendant sent subscribers a nearly
 identical Acknowledgment Email, featuring substantially the same disclosures with
 the subject line: “It’s official, Vimeo Standard is now yours.” The body of the
 Acknowledgment Email contained, in relevant part, the following text and images:

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57. The layout and text of the Acknowledgment Emails for each of the other Vimeo Subscriptions during the applicable Class Period are aesthetically and functionally similar to the Acknowledgment Email for the free trial and straight-to-paid Vimeo Standard Subscriptions shown above. Moreover, although the above-shown Acknowledgment Emails are exemplars from approximately March 2023, the Acknowledgment Emails that Defendant has sent to new subscribers of the Vimeo Subscriptions during the Class Period (including on August 2021, when Ms. Pollock enrolled in her free trial, to and through the present day) are substantively and materially identical or substantially the same in terms of layout, organization, and most importantly, text, as the March 2023 versions shown above. In all cases, the

1 Acknowledgment Emails for the Vimeo Subscriptions fail to adequately disclose the
2 applicable automatic renewal terms in the manner required by law.

3 58. The Acknowledgment Emails suffer from substantially the same
4 deficiencies as those on the Checkout Pages for the Vimeo Subscriptions, described
5 above. Namely, the Acknowledgment Emails do not adequately disclose: that the
6 subscription “will continue until the consumer cancels[,]” Cal. Bus. & Prof. Code §
7 17601(b)(1); a statement of “[t]he recurring charges that will be charged to the
8 consumer’s [Payment Method] as part of the automatic renewal plan or arrangement,
9 and that the amount of the charge may change, [and] if that is the case, and the
10 amount to which the charge will change, Cal. Bus. & Prof. Code § 17601(b)(3); or
11 “[t]he length of the automatic renewal term or that the service is continuous, unless
12 the length of the term is chosen by the consumer[,]” Cal. Bus. & Prof. Code §
13 17601(b)(4). Disclosures of these required automatic renewal terms are either
14 missing altogether, are deceptively incomplete, objectively inaccurate, and/or are
15 inconspicuously buried in the tiny fine print at the bottom of the email.

16 59. Additionally, the Acknowledgment Emails do not provide *any*
17 “description of the cancellation policy that applies to the offer[,]” Cal. Bus. & Prof.
18 Code § 17601(b)(2). In fact, the word “cancel” does not appear in Acknowledgment
19 Emails at all. Thus, the Acknowledgment Emails fail to satisfy the ARL, which
20 requires that Defendant “provide an acknowledgment that includes the automatic
21 renewal offer terms or continuous service offer terms, cancellation policy, and
22 information regarding how to cancel in a manner that is capable of being retained by
23 the consumer.” Cal. Bus. & Prof. Code § 17602(a)(3). As a result, the
24 Acknowledgment Email further violates the ARL under Cal. Bus. & Prof. Code §§
25 17602(a)(3) and 17602(b).

26 60. Additionally, the Acknowledgment Emails fail to provide a toll-free
27 telephone number or describe another cost-effective, timely, and easy-to-use
28 mechanism for cancellation, and, in fact, Defendant makes it exceedingly difficult

1 and unnecessarily confusing for consumers to cancel their Vimeo Subscriptions,
2 which further violates the ARL under Cal. Bus. & Prof. Code § 17602(c).

3 * * *

4 61. In sum, Defendant’s deficient pre- and post-purchase disclosures and
5 lack of affirmative consent fail to comply with the ARL. By and through these
6 actions, Defendant has charged Plaintiff’s and Class members’ Payment Methods in
7 direct violation of the ARL. As a result, all goods, wares, merchandise, and/or
8 products sent to Plaintiff and the Class upon the automatic renewal of their
9 continuous service agreements are deemed to be “unconditional gifts” pursuant to
10 Cal. Bus. & Prof. Code § 17603.

11 62. Because Defendant failed to disclose this material information in the
12 manner required by statute, Plaintiff was unable at the point of sale to accept or
13 provide affirmative consent to Defendant’s offer or knowingly enter into to the
14 purchase agreements. Thus, as a direct result of Defendant’s missing, incomplete,
15 and otherwise deficient disclosures on the Checkout Page and in the
16 Acknowledgment Email, Plaintiff was induced to sign up for, unable to terminate,
17 and automatically charged for her Vimeo Subscription.

18 63. Further, as a direct result of Defendant’s unlawful conduct described
19 above, Plaintiff and putative Class Members have incurred substantial financial
20 injury in the form of all monies withdrawn from their Payment Methods in
21 connection with the Vimeo Subscriptions. Specifically, Defendant’s ARL violations
22 concerning the Vimeo Subscriptions caused Plaintiff’s and Class members’ financial
23 injury because they reasonably relied on the conspicuous disclosures of Defendant’s
24 Checkout Page and Acknowledgment Email (and, as a natural corollary, the
25 omissions and/or the inconspicuousness of the disclosures contained therein) in
26 deciding whether to purchase their Vimeo Subscriptions in the first place and
27 whether to continue paying for it upon after that (*i.e.*, by not cancelling the auto-
28 renewal).

1 64. Accordingly, Plaintiff brings this action individually and on behalf of
2 similarly situated individuals against Defendant for violations of California's
3 consumer protections statutes, including California's Unfair Competition Law
4 ("UCL"), Cal. Bus. & Prof. Code §§ 17200. As set forth in detail below, Plaintiff's
5 claims, which are based on Defendant's failure to comply with the ARL, arise under
6 the "unlawful" prong of the UCL. Further, because the Vimeo Subscriptions were,
7 by operation of law, "unconditional gifts" to Plaintiff and putative Class Members
8 (see Cal. Bus. & Prof. Code § 17603) – and thus, Plaintiff and Class Members
9 already owned the goods, tools, and benefits of the subscriptions as their personal
10 property at the time Defendant withdrew monies from their Payment Methods as
11 consideration for access to the same, without any legal or contractual authority to do
12 so – Plaintiff's claims are also based on Defendant's practice of charging consumers
13 in exchange unconditional gifts and arise under the "fraudulent" and "unfair" prongs
14 of the UCL. Additionally, Plaintiff brings this action against Defendant for
15 violations of the CLRA and FAL, and conversion, unjust enrichment, negligent
16 misrepresentation, and fraud.

17 **PLAINTIFF'S INDIVIDUAL ALLEGATIONS**

18 65. Plaintiff Psalm Pollock is an individual consumer who signed up for a
19 free trial to Defendant's Pro Vimeo Subscription in or around August of 2021, from
20 Defendant's Website while residing in California. At the time Ms. Pollock signed
21 up for her Vimeo Subscription, she provided her Payment Method information
22 directly to Defendant.

23 66. Before Ms. Pollock purchased her Vimeo Subscription, Defendant did
24 not disclose to Ms. Pollock all of the required automatic renewal offer terms
25 associated with her subscription program. Additionally, although the Checkout Page
26 from which Ms. Pollock made her purchase included some relevant information
27 regarding automatic renewal, the manner in which this information was presented
28 was insufficient to put Ms. Pollock on notice of the material automatic renewal offer

1 terms applicable to her Vimeo Subscription. Specifically, prior to completing her
2 Vimeo Subscription order, the relevant screens and buttons presented to Ms. Pollock
3 did not clearly and conspicuously state that her Vimeo Subscription would
4 automatically renew every year until she canceled; they did not state the recurring
5 charges that would be charged to Ms. Pollock's Payment Method as part of the
6 automatic renewal plan, explain that the timing of the charge would change, or
7 disclose the yearly date to which the charge would change; and they did not describe
8 the full cancellation policy that applied to the purchase.

9 67. Moreover, at no point prior to completing her initial purchase did
10 Defendant obtain Ms. Pollock's affirmative consent to an agreement containing the
11 automatic renewal offer terms.

12 68. After Ms. Pollock completed her initial order, Defendant sent Ms.
13 Pollock an Acknowledgment Email stating that her Vimeo Subscription had been
14 activated. However, that Acknowledgment Email failed to provide Ms. Pollock with
15 the complete automatic renewal terms that applied to Defendant's offer, a
16 description of Defendant's full cancellation policy, or information regarding how to
17 cancel Ms. Pollock's Vimeo Subscription in a manner capable of being retained by
18 her. Ms. Pollock did not receive any other acknowledgments that contain the
19 required information.

20 69. As a result of Defendant's missing and otherwise deficient disclosures,
21 when Ms. Pollock selected and enrolled in her free trial Vimeo Subscription, she
22 was unaware that Defendant enrolled her in an "automatic renewal" program under
23 which the subscription would renew each year and result in continuous monthly
24 automatic renewal charges to her Payment Method unless and until Plaintiff chose to
25 cancel.

26 70. Nevertheless, in or around September 2021, approximately one month
27 after her initial enrollment in her free trial of the Vimeo Subscription, Defendant
28 automatically renewed Ms. Pollock's Vimeo Subscription and charged her Payment

1 Method in the amount of \$240.00, the full yearly rate associated with the paid yearly
2 Vimeo Plus Subscription. Thereafter, Ms. Pollock learned upon review of her
3 billing statements and banking history that, notwithstanding her belief that she had
4 only signed up for a free trial, Defendant had automatically renewed Ms. Pollock's
5 Vimeo Subscription upon the expiration of the free trial period and, without Ms.
6 Pollock's affirmative consent, charged Ms. Pollock's Payment Method in the full
7 standard yearly rate of \$240.00 associated with her Vimeo Subscription. After
8 seeing Defendant's charge to her Payment Method, Ms. Pollock attempted to cancel
9 her Vimeo Subscription, which she struggled to do due to Defendant's obscured,
10 confusing, and time-consuming cancellation policy. Ultimately, Ms. Pollock was
11 able to affect cancellation, and thereby stop Defendant from automatically charging
12 her Payment Method before the next billing in or around September 2022.

13 71. Additionally, once Ms. Pollock's Vimeo Subscription was finally
14 terminated – which only happened after several unsuccessful cancellation attempts –
15 Ms. Pollock discovered that a substantial amount of the content that she had
16 previously uploaded using Vimeo was deleted after Defendant downgraded her
17 account to a basic subscription. As discussed above, if subscribers choose to cancel
18 their Vimeo Subscriptions, their “account will, at Vimeo's option, revert to a free
19 membership or will be deleted [and] [a]ny content in the account may be deleted to
20 comply with the limitations of the new account status.” *See supra* ¶ 50 & n.56.
21 However, this consequence of cancellation was not disclosed on the Checkout Page
22 that Plaintiff reviewed at the point of purchase or the Acknowledgment Email she
23 received subsequent thereto, among other material omissions. Thus, prior to
24 cancellation, Ms. Pollock was under the impression that she would be able to retain
25 the additional content she was able to upload through her Vimeo Subscription. But,
26 as Plaintiff and other subscribers discovered long after their initial enrollments, that
27 is not true. Indeed, some subscribers have written blogs and articles warning
28 potential consumers that Vimeo will hold their videos and other content captive if

1 they chose not to auto-renew their subscriptions: “Vimeo is an excellent platform for
 2 filmmakers to show their work. However, keep in mind that once you are there as a
 3 paying customer, you are captured by their subscription model and most likely, you
 4 will need to pay forever to keep your videos alive.”⁵⁵ As another blogger explained
 5 “[i]n other words, small customers [for Vimeo] undesirable, especially if their
 6 audiences view a few too many videos in 4K. As a result, some customers paying
 7 \$200 annually to Vimeo are now asked to fork over thousands or have their content
 8 deleted...this felt like a rather shocking bait-and-switch.”⁵⁶ Other consumers have
 9 expressed their frustration on social media channels. On February 27, 2023, a
 10 Reddit user wrote: “I abandoned Vimeo finally, after maybe 12 years of paying for
 11 it. UI is awful, customer service is awful, the way they threaten to delete your videos
 12 if you decide to cancel your plus or other premium subscription for a short while is
 13 also needlessly aggressive [] towards paid users.”⁵⁷

14 72. Like many other subscribers, upon cancellation of her Vimeo
 15 Subscription, Ms. Pollock lost a substantial amount of her uploaded content, as well
 16 as the audience to that content, and thus suffered further consequential damages in
 17 the form of loss money and/or property.

18 73. Notably, neither the Checkout Page nor the Acknowledgment Email
 19 contain any explanation whatsoever regarding how and when to cancel or the
 20 consequences of cancellation the Vimeo Subscriptions. As a result, based on the
 21 pre- and post-check out disclosures featured on the Checkout Page and in the
 22

23 ⁵⁵ Y.M.Cinema Magazine, *Vimeo is Deleting Your Videos When you Switch to Basic*
 24 *Account*, (Apr. 3, 2019), <https://ymcinema.com/2019/04/03/vimeo-is-deleting-your-videos-when-you-switch-to-basic-account/>

25 ⁵⁶ AE Studio, *Victims of Vimeo* (Mar. 21, 2022), <https://ae.studio/blog/victims-of-vimeo>

26 ⁵⁷ Reddit, post by u/Sigerr: “In all seriousness - WTF is wrong with vimeo?” (posted
 27 Mar. 3, 2023),
 28 https://www.reddit.com/r/Filmmakers/comments/11h4hzm/in_all_seriousness_wtf_is_wrong_with_vimeo/.

1 Acknowledgment Email, at the time of her initial enrollment and for most of the life
2 of her Vimeo Subscription, Ms. Pollock did not know as a basic matter that the
3 subscription program would automatically renew and result in recurring charges to
4 her Payment Method or that cancellation was required to stop those charges. Nor
5 was she aware of the other material aspect of Defendant’s cancellation policy
6 discussed above, such as the mechanisms for effecting cancellation, the deadline to
7 cancel, or the consequences of doing so.

8 74. Ms. Pollock was not previously aware of any of the omitted aspects of
9 Defendant’s cancellation policy discussed above, *see supra* ¶ 50. At no point during
10 her Vimeo Subscription was Ms. Pollock required or even prompted to navigate to
11 or otherwise examine any of the terms disclosed on the on any other page of the
12 Vimeo Website aside from the Checkout Page. Further, Defendant neglected to
13 disclose this information to Ms. Pollock at the point of purchase on the Checkout
14 Page or in the Acknowledgment Email that Defendant sent to Ms. Pollock after he
15 completed the checkout process. Accordingly, Defendant failed to place Ms.
16 Pollock on notice of its cancellation policy or provide Ms. Pollock information
17 regarding how to cancel in a manner that is capable of being retained by her, in
18 violation of Cal. Bus. & Prof. Code §§ 17602(a)(1)-(3).

19 ***

20 75. Ms. Pollock’s confusion and surprise with respect to, *inter alia*,
21 Defendant’s automatic renewal policies and practices – including the basic fact of
22 automatic renewal, the amount and timing of the recurring renewal fees she incurred
23 during the life of her Vimeo Subscription – is the direct result of Defendant’s failure
24 to adequately place Pollock on notice of several material automatic renewal offer
25 terms associated with her Vimeo Subscription. That is, Ms. Pollock was not made
26 aware of the fact that Defendant enrolled her in an “automatic renewal” program
27 under which his Vimeo Subscription would automatically renew each year after the
28 initial one-month trial period, unless and until Ms. Pollock took action to effectively

1 cancel that subscription, nor was she apprised of the recurring price to be charged or
2 of the length of the applicable automatic renewal term associated with her Vimeo
3 Subscription. Because Defendant failed to disclose this material information in the
4 manner required by statute, Ms. Pollock was unable at the point of sale to accept
5 Defendant's offer or knowingly enter into to the purchase agreement.

6 76. Additionally, as discussed above, neither the Checkout Page nor the
7 Acknowledgment Email adequately explain how to cancel the Vimeo Subscriptions,
8 provide contact information that the consumer can use to reach out to Defendant and
9 affect cancellation (such as email address or toll-free phone number), or state the
10 consequences of cancellation— especially with respect to the consumer's ability to
11 obtain a partial and/or full refund following cancellation. As a result, Ms. Pollock
12 was not previously aware of any of the altogether omitted aspects of Defendant's
13 cancellation policy. At no point during her Vimeo Subscription was Ms. Pollock
14 required or even prompted to navigate to or otherwise examine any of the terms
15 disclosed on the on any other page of the Vimeo Website aside from the Checkout
16 Page. Further, Defendant neglected to disclose this information to Ms. Pollock at
17 the point of purchase on the Checkout Page or in the Acknowledgment Email that
18 Defendant sent to Ms. Pollock after she completed the checkout process.
19 Accordingly, Defendant failed to place Ms. Pollock on notice of its cancellation
20 policy or provide Ms. Pollock information regarding how to cancel in a manner that
21 is capable of being retained by her, in violation of Cal. Bus. & Prof. Code §§
22 17602(a)(3), 17602(c).

23 77. Moreover, even if the Acknowledgment Email had contained
24 Defendant's complete cancellation policy (it did not), the "mechanism for
25 cancellation" that exists is not one that Ms. Pollock and other reasonable consumers
26 would consider "timely" or "easy-to-use." Defendant therefore failed to provide Ms.
27 Pollock with a "timely[] and easy-to-use mechanism for cancellation" or describe
28

1 any such mechanism in an Acknowledgment Email, in violation of Cal. Bus. & Prof.
2 Code § 17602(c).

3 78. Defendant’s failure to fully and adequately disclose the automatic
4 renewal offer terms associated with the Vimeo Subscriptions on the Checkout Page
5 and in the Acknowledgment Email, its failure to obtain Ms. Pollock’s affirmative
6 consent before charging her Payment Method on a recurring basis, and its failure to
7 issue a refund for the several months of unauthorized renewal charges it posted to
8 Ms. Pollock’s Payment Method notwithstanding the lack of affirmative consent are
9 contrary to the ARL, which deems products provided in violation of the statute to be
10 an “unconditional gift” to consumers that they “may use or dispose of ... in any
11 manner [they] see[] fit without any obligation whatsoever on the consumer’s part to
12 the business.” Cal. Bus. & Prof. Code § 17603.

13 79. Further, Defendant’s practice of remotely disabling these goods,
14 features, benefits, and tools of the Vimeo Subscriptions upon cancellation runs
15 contrary to Section 17603 the ARL. *See id.* That is, because Defendant violated the
16 ARL as described above and below, the goods that Ms. Pollock received in
17 connection with her Vimeo Subscription were, in fact and by operation of law,
18 “unconditional gifts” to her. In other words, Plaintiff assumed absolute ownership
19 of these subscription benefits from the moment she received them, and Defendant
20 was not entitled to interfere with her continued ownership, possession, and/or use of
21 such goods.

22 80. As a direct result of Defendant’s unlawful conduct described above
23 (e.g., its missing and otherwise deficient disclosures on the Checkout Page and in the
24 Acknowledgment Email, and its non-compliance cancellation mechanism), Ms.
25 Pollock was induced to sign up for, and unable to terminate, her Vimeo
26 Subscription. In other words, Defendant’s ARL violations concerning the Vimeo
27 Subscriptions caused Plaintiff’s financial injury because she reasonably relied on
28 Defendant’s conspicuous disclosures of the Checkout Pages and the

1 Acknowledgment Emails (and, as a natural corollary, the omissions and/or the
2 inconspicuousness of the disclosures contained therein) in deciding whether to
3 purchase her Vimeo Subscriptions in the first place and whether to continue paying
4 for it upon after that (*i.e.*, by not cancelling the auto-renewal prior to the expiration
5 of her free trial period or before incurring further charges for any subsequent paid
6 renewal periods). Additionally, Plaintiff also lost property as a direct result of
7 Defendant's unlawful conduct—namely, loss of the digital goods and benefits of the
8 Vimeo Subscriptions, which had become Plaintiff's unconditional property by
9 operation of the ARL, but which she was barred access by Defendant following
10 termination of her Vimeo Subscription.

11 81. Had Defendant complied with the ARL by adequately disclosing – and
12 obtaining Ms. Pollock's affirmative consent to – the requisite Vimeo Subscription
13 terms on the Checkout Page at the point of Ms. Pollock's initial enrollment in
14 August of 2021, Ms. Pollock would have been able to read and review the auto
15 renewal terms prior to purchase and she would have not enrolled in the Vimeo
16 Subscription in the first place, or would have subscribed on materially different
17 terms, thereby avoiding financial injury of any kind as a result of Defendant's ARL
18 violations. Similarly, had Defendant complied with the ARL by adequately
19 disclosing the terms associated with Ms. Pollock's Vimeo Subscription in the post-
20 checkout Acknowledgment Email (*i.e.*, after initial enrollment but before Defendant
21 subsequently automatically renewed Ms. Pollock's Vimeo Subscription for a full
22 paid year membership and charged her Payment Method accordingly), Ms. Pollock
23 would have been able to read and review the auto renewal terms prior to renewal,
24 and she would have canceled her Vimeo Subscription prior to the expiration of the
25 free trial period or any subsequent renewal period in which she would have learned
26 such information, thereby avoiding all or part of the automatic renewal charge that
27 Ms. Pollock incurred on September 2021. But Defendant did not adequately
28 disclose the required automatic renewal terms in either the Checkout Page or the

1 Acknowledgment Email, thereby depriving Ms. Pollock of the opportunity to make
2 an informed decision as to the transaction.

3 82. The facts giving rise to Ms. Pollock’s claims are materially the same as
4 the Class she seeks to represent.

5 **CLASS ACTION ALLEGATIONS**

6 83. ***Class Definition.*** Plaintiff brings this action pursuant to Code of Civil
7 Procedure § 382 and Civil Code § 1781 on behalf of a class of similarly situated
8 individuals, defined as follows (the “Class”):

9 All persons in California who, within the applicable statute
10 of limitations period, up to and including the date of final
11 judgment in this action, incurred renewal fee(s) in
12 connection with Defendant’s offerings for paid Vimeo
Subscriptions.

13 84. Specifically excluded from the Class are Defendant and any entities in
14 which Defendant have a controlling interest, Defendant’s agents and employees, the
15 judge to whom this action is assigned, members of the judge’s staff, and the judge’s
16 immediate family.

17 85. Plaintiff reserves the right to amend the definition of the Class if
18 discovery or further investigation reveals that the Class should be expanded or
19 otherwise modified.

20 86. ***Numerosity.*** Members of the Class are so numerous that their
21 individual joinder herein is impracticable. On information and belief, the Class
22 comprises at least millions of consumers throughout California. The precise number
23 of Class members and their identities are unknown to Plaintiff at this time but may
24 be determined through discovery. Class members may be notified of the pendency
25 of this action by mail and/or publication through the distribution records of
26 Defendant.

27 87. ***Commonality and Predominance.*** Common questions of law and fact
28 exist as to all Class members and predominate over questions affecting only

1 individual Class members. Common legal and factual questions include, but are not
2 limited to: (a) whether Defendant’s Vimeo Subscriptions constitute “Automatic
3 renewal[s]” within the meaning of Cal. Bus. & Prof. Code § 17601(a); (b) whether
4 Defendant failed to present the automatic renewal offer terms, or continuous service
5 offer terms, in a clear and conspicuous manner before the subscription or purchasing
6 agreement was fulfilled and in visual proximity to the request for consent to the
7 offer, in violation of Cal. Bus. & Prof. Code § 17602(a)(1); (c) whether Defendant
8 charged Plaintiff’s and Class members’ Payment Method for an automatic renewal
9 or continuous service without first obtaining their affirmative consent to the
10 automatic renewal offer terms or continuous service offer terms in violation of Cal.
11 Bus. & Prof. Code § 17602(a)(2); (d) whether Defendant failed to provide an
12 acknowledgment that included the automatic renewal or continuous service offer
13 terms, cancellation policy, and information on how to cancel in a manner that is
14 capable of being retained by Plaintiff and the Class, in violation of Cal. Bus. & Prof.
15 Code § 17602(a)(3); (e) whether the goods and services provided by Defendant are
16 deemed an “unconditional gift” in accordance with Cal. Bus. & Prof. Code § 17603;
17 (f) whether Defendant’s conduct alleged herein violated California’s False
18 Advertising Law (“FAL”), Cal. Bus. & Prof. Code §§ 17500, *et seq.*, California’s
19 Consumers Legal Remedies Act (“CLRA”), Cal. Civ. Code §§ 1750, *et seq.*, and/or
20 California’s Unfair Competition Law (“UCL”), Cal. Bus. & Prof. Code §§ 17200, *et*
21 *seq.*; (g) whether Defendant’s conduct alleged herein constitutes conversion and/or
22 unjust enrichment; (h) whether Plaintiff and the Class are entitled to damages and/or
23 restitution; (i) whether Defendant should be enjoined from further engaging in the
24 misconduct alleged herein; and (j) whether Plaintiff and the Class are entitled to
25 attorneys’ fees and costs under California Code of Civil Procedure § 1021.5.

26 88. **Typicality.** The claims of Plaintiff Pollock are typical of the claims of
27 the Class in that Plaintiff and the Class sustained damages as a result of Defendant’s
28 uniform wrongful conduct, based upon Defendant’s failure to obtain Plaintiff’s and

1 the Class’s affirmative consent to the automatic renewal offer terms or continuous
2 service offer terms associated with the Vimeo Subscriptions before charging their
3 Payment Methods.

4 89. **Adequacy.** Plaintiff will fairly and adequately protect Class members’
5 interests. Plaintiff has no interests antagonistic to Class members’ interests, and
6 Plaintiff has retained counsel that have considerable experience and success in
7 prosecuting complex class-actions and consumer-protection cases.

8 90. **Superiority.** A class action is superior to all other available methods for
9 the fair and efficient adjudication of this controversy for, *inter alia*, the following
10 reasons: prosecutions of individual actions are economically impractical for
11 members of the Class; the Class is readily definable; prosecution as a class action
12 avoids repetitious litigation and duplicative litigation costs, conserves judicial
13 resources, and ensures uniformity of decisions; and prosecution as a class action
14 permits claims to be handled in an orderly and expeditious manner.

15 91. Defendant has acted or failed to act on grounds generally applicable to
16 the Class, thereby making appropriate final injunctive relief with respect to the Class
17 as a whole.

18 92. Without a class action, Defendant will continue a course of action that
19 will result in further damages to Plaintiff and members of the Class and will likely
20 retain the benefits of its wrongdoing.

21 93. Based on the foregoing allegations, Plaintiff’s claims for relief include
22 those set forth below.

23 **COUNT I**
24 **Violations of California’s Unfair Competition Law (“UCL”),**
25 **Cal. Bus. & Prof. Code §§ 17200, *et seq.***

26 94. Plaintiff re-alleges and incorporates by reference every allegation set
27 forth in the preceding paragraphs as though alleged in this Count.
28

1 95. Plaintiff brings this claim individually and on behalf of the members of
2 the proposed Class against Defendant.

3 96. The UCL prohibits unfair competition in the form of “any unlawful,
4 unfair, or fraudulent business act or practice and unfair, deceptive, untrue or
5 misleading advertising and any act[.]” Cal. Bus. & Prof. Code § 17200. The UCL
6 allows “a person who has suffered injury in fact and has lost money or property” to
7 prosecute a civil action for violation of the UCL. Cal. Bus. & Prof. Code § 17204.
8 Such a person may bring such an action on behalf of himself or herself and others
9 similarly situated who are affected by the unlawful and/or unfair business practice or
10 act.

11 97. As alleged below, Defendant has committed unlawful and/or unfair
12 business practices under the UCL by: (a) representing that Defendant’s goods and
13 services have certain characteristics that they do not, in violation of Cal. Civil Code
14 § 1770(a)(5); (b) advertising goods and services with the intent not to sell them as
15 advertised, in violation of Cal. Civil Code § 1770(a)(9); and (c) converting to
16 Defendant’s own use and benefit money that rightfully belongs to Plaintiff and the
17 Class.

18 98. Additionally, at all relevant times, Defendant has violated, and
19 continues to violate, the UCL’s proscription against engaging in unlawful and/or
20 unfair conduct as a result of its violations of the ARL, Cal. Bus. & Prof. Code §§
21 17600, *et seq.* Specifically, Defendant failed, and continues to fail, to: (a) provide
22 the auto-renewal terms associated with its Vimeo Subscriptions “in a clear and
23 conspicuous manner before the subscription or purchasing agreement is fulfilled and
24 in visual proximity[] ... to the request for consent to the offer,” in violation of Cal.
25 Bus. & Prof. Code § 17602(a)(1); (b) obtain the affirmative consent of Plaintiff and
26 the Class to those terms before charging their Payment Methods, in violation of Cal.
27 Bus. & Prof. Code § 17602(a)(2); and (c) provide an acknowledgment that includes
28 the automatic renewal or continuous service offer terms, cancellation policy, and

1 information regarding how to cancel in a manner that is capable of being retained by
2 the consumer, in violation of Cal. Bus. & Prof. Code §§ 17602(a)(3). Defendant
3 also makes it exceedingly difficult and unnecessarily confusing for consumers to
4 cancel their Vimeo Subscriptions, in violation of Cal. Bus. & Prof. Code § 17602(b).

5 99. Each of these acts and practices constitutes an independent violation of
6 the ARL, and thus an independent violation of the UCL.

7 100. All products received from Defendant in violation of the ARL, Cal.
8 Bus. Prof. Code §§ 17602, *et seq.*, constitute “unconditional gifts.” *See* Cal. Bus.
9 Prof. Code § 17603. As a direct and proximate result of Defendant’s unlawful
10 and/or unfair practices described herein, Defendant has received, and continues to
11 hold, unlawfully obtained property and money belonging to Plaintiff and the Class in
12 the form of payments made by Plaintiff and Class members for their Vimeo
13 Subscriptions. Defendant has profited from its unlawful and/or unfair acts and
14 practices in the amount of those business expenses and interest accrued thereon.

15 101. Defendant’s acts and omissions as alleged herein violate obligations
16 imposed by statute, are substantially injurious to consumers, offend public policy,
17 and are immoral, unethical, oppressive, and unscrupulous as the gravity of the
18 conduct outweighs any alleged benefits attributable to such conduct.

19 102. There were reasonably available alternatives to further Defendant’s
20 legitimate business interests, other than the conduct described herein.

21 103. Defendant’s acts, omissions, nondisclosures, and misleading statements
22 as alleged herein were and are false, misleading, and/or likely to deceive the
23 consuming public.

24 104. Plaintiff and the members of the Class have suffered a substantial injury
25 in fact and lost money by virtue of Defendant’s acts of unfair competition, which
26 caused them to purchase the Vimeo Subscriptions. Had Defendant complied with its
27 disclosure obligations under the ARL, Plaintiff and members of the Class would not
28 have purchased their Vimeo Subscriptions or would have canceled their Vimeo

1 Subscriptions prior to the renewal of the subscriptions, so as not to incur additional
2 fees. Thus, Plaintiff and members of the Class were damaged and have suffered
3 economic injuries as a direct and proximate result of Defendant's unlawful and/or
4 unfair business practices.

5 105. Defendant's violations have continuing and adverse effects because
6 Defendant's unlawful conduct is continuing, with no indication that Defendant
7 intends to cease this unlawful course of conduct. The public and the Class are
8 subject to ongoing harm because the unlawful and/or unfair business practices
9 associated with the Vimeo Subscriptions are still used by Defendant today.

10 106. Plaintiff and the Class seek restitution pursuant to Cal. Bus. & Prof.
11 Code § 17203 of all amounts that Defendant charged or caused to be charged to
12 Plaintiff's and the Class's Payment Methods in connection with their Vimeo
13 Subscriptions during the four years preceding the filing of this Complaint.
14 Defendant should be required to disgorge all the profits and gains it has reaped and
15 restore such profits and gains to Plaintiff and the Class, from whom they were
16 unlawfully taken.

17 107. Pursuant to Cal. Bus. & Prof. Code § 17203, Plaintiff and members of
18 the Class seek a court order enjoining Defendant from such future misconduct, and
19 any other such orders that may be necessary to rectify the unlawful business
20 practices of Defendant.

21 108. Plaintiff Pollock brings this action as private attorney general and to
22 vindicate and enforce an important right affecting the public interest. Plaintiff and
23 the Class are therefore entitled to an award of attorneys' fees under Code of Civil
24 Proc. § 1021.5 for bringing this action.

25 **COUNT II**
26 **Conversion**

27 109. Plaintiff re-alleges and incorporates by reference every allegation set
28 forth in the preceding paragraphs as though alleged in this Count.

1 110. Plaintiff brings this claim individually and on behalf of the members of
2 the proposed Class against Defendant.

3 111. As a result of charges made by Defendant to Plaintiff’s and Class
4 members’ Payment Methods without authorization and in violation of California
5 law, Defendant has taken money that belongs to Plaintiff and the Class.

6 112. The amount of money wrongfully taken by Defendant is capable of
7 identification.

8 113. Defendant engaged in this conduct knowingly, willfully, and with
9 oppression, fraud, and/or malice within the meaning of Cal. Civil Code § 3294(c).

10 114. As a result of Defendant’s actions, Plaintiff and the Class have suffered
11 damages.

12 **COUNT III**
13 **Violations of California’s False Advertising Law (“FAL”),**
14 **Cal. Bus. & Prof. Code §§ 17500, *et seq.***

15 115. Plaintiff re-alleges and incorporates by reference every allegation set
16 forth in the preceding paragraphs as though alleged in this Count.

17 116. Plaintiff brings this claim individually and on behalf of the members of
18 the proposed Class against Defendant.

19 117. California’s False Advertising Law, Cal. Bus. & Prof. Code §§ 17500,
20 *et seq.*, makes it “unlawful for any person to make or disseminate or cause to be
21 made or disseminated before the public in this state, ...in any advertising device ...
22 or in any other manner or means whatever, including over the Internet, any
23 statement, concerning ... personal property or services, professional or otherwise, or
24 performance or disposition thereof, which is untrue or misleading and which is
25 known, or which by the exercise of reasonable care should be known, to be untrue or
26 misleading.”

27 118. Defendant committed acts of false advertising, as defined by § 17500,
28 by intentionally making and disseminating statements to consumers in California

1 and the general public concerning Defendant's products and services, as well as
2 circumstances and facts connected to such products and services, which are untrue
3 and misleading on their face and by omission, and which are known (or which by the
4 exercise of reasonable care should be known) by Defendant to be untrue or
5 misleading. Defendant has also intentionally made or disseminated such untrue or
6 misleading statements and material omissions to consumers in California and to the
7 public as part of a plan or scheme with intent not to sell those services as advertised.

8 119. Defendant's statements include but are not limited to representations
9 and omissions made to consumers before and after enrollment in Defendant's Vimeo
10 Subscriptions regarding the terms of payment for and cancellation of a consumer's
11 automatic payments. Defendant is silent with regard to the terms of its cancellation
12 policy. These omissions on the Checkout Page and the Acknowledgment Email
13 constitute false and deceptive advertisements.

14 120. Defendant's actions in violation of § 17500, as described herein, were
15 false and misleading such that the general public is and was likely to be deceived.

16 121. Plaintiff and the members of the Class were deceived by Defendant's
17 statements and omissions made online when they signed up and started paying for
18 their Vimeo Subscriptions, and there is a strong probability that other California
19 consumers and members of the public were also or are likely to be deceived as well.
20 Any reasonable consumer would be misled by Defendant's false and misleading
21 statements and material omissions. Plaintiff and other members of the Class did not
22 learn of Defendant's cancellation and automatic payment policies until after they had
23 already signed up and started paying for Defendant's Vimeo Subscription. They
24 relied on Defendant's statements and omissions to their detriment.

25 122. Plaintiff and the Class lost money or property as a result of Defendant's
26 FAL violations because they would not have purchased the Vimeo Subscriptions on
27 the same terms if the true facts were known about the product and the Vimeo
28 Subscriptions do not have the characteristics as promised by Defendant.

1 constitute the advertisement of the goods in question without the intent to sell them
2 as advertised, in violation of Cal. Civil Code § 1770(a)(9).

3 129. Plaintiff and the Class suffered economic injury as a direct result of
4 Defendant’s misrepresentations and/or omissions because they were induced to
5 purchase Vimeo Subscriptions and/or pay renewal fees they would not have
6 otherwise purchased and/or paid. Had Defendant fully and clearly disclosed the
7 terms associated with the Vimeo Subscriptions, Plaintiff and the Class would have
8 not subscribed to the Vimeo Subscriptions, or they would have cancelled their
9 Vimeo Subscriptions earlier, *i.e.*, prior to the expiration of the initial subscription
10 period.

11 130. Plaintiff Pollock, on behalf of herself and all other members the Class,
12 seeks an injunction prohibiting Defendant from continuing its unlawful practices in
13 violation of the CLRA.

14 131. In compliance with the provisions of California Civil Code § 1782,
15 Plaintiff sent written notice to Defendant on April 4, 2023, informing Defendant of
16 her intention to seek damages under California Civil Code § 1750. The letter was
17 sent via certified mail, return receipt requested, advising Defendant that it was in
18 violation of the CLRA and demanding that it cease and desist from such violations
19 and make full restitution by refunding the monies received therefrom. The letter
20 expressly stated that it was sent on behalf of Plaintiff and “all other persons similarly
21 situated.” Accordingly, if Defendant fails to take corrective action within 30 days of
22 receipt of the demand letter, Plaintiff Pollock will amend her complaint to include a
23 request for damages as permitted by Civil Code § 1782(d) for Defendant’s violations
24 of the CLRA.

25 **COUNV V**
26 **Unjust Enrichment / Restitution**

27 132. Plaintiff re-alleges and incorporates by reference every allegation set
28 forth in the preceding paragraphs as though alleged in this Count.

1 133. Plaintiff brings this claim individually and on behalf of the members of
2 the proposed Class against Defendant.

3 134. Plaintiff and the Class conferred benefits on Defendant by purchasing
4 the Vimeo Subscriptions.

5 135. Defendant has been unjustly enriched in retaining the revenues derived
6 from Plaintiff and the Class's purchases of the Vimeo Subscriptions. Retention of
7 those moneys under these circumstances is unjust and inequitable because
8 Defendant's failure to disclose material terms of the purchase agreement, in
9 violation of California law, induced Plaintiff and the Class to purchase the Vimeo
10 Subscriptions. These omissions caused injuries to Plaintiff and the Class because
11 they would not have purchased the Vimeo Subscriptions at all, or on the same terms,
12 if the true facts were known.

13 136. Because Defendant's retention of the non-gratuitous benefits conferred
14 on them by Plaintiff and the Class is unjust and inequitable, Defendant must pay
15 restitution to Plaintiff and the Class for their unjust enrichment, as ordered by the
16 Court.

17 **COUNT VI**
18 **Negligent Misrepresentation**

19 137. Plaintiff hereby re-alleges and incorporates by reference the allegations
20 contained in all preceding paragraphs of this complaint.

21 138. Plaintiff brings this claim individually and on behalf of the members of
22 the proposed Class against Defendant.

23 139. As discussed above, Defendant omitted, failed to disclose, and
24 intentionally concealed from its advertisements and related statements regarding the
25 Vimeo Subscriptions material facts concerning billing, cancellation, and automatic
26 payment terms, policies, and requirements.

1 148. The misrepresentations and omissions made by Defendant, upon which
2 Plaintiff and Class members reasonably and justifiably relied, were intended to
3 induce and actually induced Plaintiff and Class members to purchase the Vimeo
4 Subscriptions.

5 149. The fraudulent actions of Defendant caused damage to Plaintiff and the
6 members of the Class, who are entitled to damages and other legal and equitable
7 relief as a result.

8 **PRAYER FOR RELIEF**

9 WHEREFORE, Plaintiff Pollock, individually and on behalf of all others
10 similarly situated, seeks judgment against Defendant, as follows:

- 11 a. For an order certifying the Class and naming Plaintiff as a
12 representative of the Class and Plaintiff’s attorneys as Class Counsel to
13 represent the Class;
14 b. For an order declaring Defendant’s conduct violates the statutes
15 referenced herein;
16 c. For an order finding in favor of Plaintiff and the Class on all counts
17 asserted herein;
18 d. For actual, compensatory, statutory, and/or punitive damages in
19 amounts to be determined by the Court and/or jury;
20 e. For prejudgment interest on all amounts awarded;
21 f. For an order of restitution and all other forms of equitable monetary
22 relief;
23 g. For injunctive relief as pleaded or as the Court may deem proper; and
24 h. For an order awarding Plaintiff and the Class their reasonable attorneys’
25 fees, expenses, and costs of suit.

26 **JURY DEMAND**

27 Plaintiff demands a trial by jury on all causes of action and issues so triable.
28

1 Dated: April 4, 2023

Respectfully submitted,

2 **BURSOR & FISHER, P.A.**

3
4 By: /s/ Neal J. Deckant

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26 *Attorneys for Plaintiff and the Putative Class*

CLRA Venue Declaration Pursuant to California Civil Code Section 1780(d)

I, Neal J. Deckant, declare as follows:

1. I am an attorney at law licensed to practice in the State of California and a member of the bar of this Court. I am a Partner at Bursor & Fisher, P.A., counsel of record for Plaintiff Psalm Pollock in this action. Plaintiff Psalm Pollock alleges that she is a citizen of California who resides in San Marcos, California. I have personal knowledge of the facts set forth in this declaration and, if called as a witness, I could and would competently testify thereto under oath.

2. The Complaint filed in this action is filed in the proper place for trial under Civil Code Section 1780(d) in that Defendant Vimeo, Inc., regularly does business in the Southern District of California, and a substantial portion of the events alleged in the Complaint, including the same misrepresentations, omissions, and injures as alleged herein, have occurred in this District.

I declare under the penalty of perjury under the laws of the State of California and the United States that the foregoing is true and correct and that this declaration was executed at Walnut Creek, California, this 4th day of April, 2023.

/s/ Neal J. Deckant
Neal J. Deckant

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Class Action Claims Vimeo Automatic Subscription Renewals Violate California Law](#)
