

**IN THE SUPERIOR COURT
OF THE DISTRICT OF COLUMBIA**

CHRISTINA RECTOR

503 49th St. NE
Washington DC, 20019,

on behalf of herself and all others
similarly situated,

Plaintiff,

v.

WALMART INC.,

702 Southwest Eighth St.
Bentonville, AR, 72716

Defendant.

CASE NO.: 2024-CAB-000434

JUDGE:

CLASS ACTION COMPLAINT

INTRODUCTION

Plaintiff Christina Rector, by and through undersigned counsel, bring this class action complaint against Defendant Walmart, Inc. (“Walmart”), individually and on behalf of all others similarly situated, and allege upon personal knowledge as to her own acts and experience, and as to all other matters, upon information and belief, including the investigation conducted by Plaintiff’s counsel.

NATURE OF THE ACTION AND BACKGROUND FACTS

1. Prices charged at Walmart stores in the District of Columbia are not set by the local store management, but instead are set by Walmart’s corporate management.
2. When Walmart’s corporate management sets a new price for an item at a D.C. store, it sends that price to the store, and the employees at the store update the price by completing a price change procedure within Walmart’s computer system and printing a shelf tag.

3. When the shelf tag is printed, the price is automatically updated in the store's point-of-sale system ("register").

4. While printing the shelf tag automatically updates the price that customers are charged at the register, to change the price displayed on the shelf, employees must manually affix the new shelf tag to the shelf.

5. To avoid a discrepancy between the price displayed on the shelf and the price charged at the register, employees must immediately affix the new shelf tag to the shelf upon printing it.

6. But employees frequently print a new shelf tag and never affix it to the shelf. When employees fail to affix the new shelf tag to the shelf, the printing of the shelf tag causes the register price to be automatically updated with the new, higher price, while the old, lower price continues to be displayed on the shelf.

7. The failure to timely implement price changes sent by Walmart corporate management may result in disciplinary action. Therefore, Walmart employees are incentivized to print shelf tags as quickly as possible, thereby updating the register price, even if they do not have time to affix those tags to the shelves.

8. As a result of Walmart's failure to update the shelf-tag price, when customers at Walmart's D.C. locations select an item to purchase, the price that Walmart charges them at the register is frequently higher than the price on the shelf tag viewed by customers when selecting an item.

9. For over a year, Plaintiff's counsel has conducted an investigation of Walmart's two D.C. locations: 310 Riggs Road, N.E. (Walmart Supercenter #3035) and 5929 Georgia Avenue, N.W. (Walmart Supercenter #5968).¹

10. The investigation was conducted by Scott Kucik, an experienced private investigator in the D.C. area. See Affidavit of Scott Kucik, attached as Exhibit A to this Complaint.

11. To date, the investigation has uncovered over 400 items that were mispriced throughout Walmart's D.C. locations. Many of the mispriced items remained uncorrected for months.

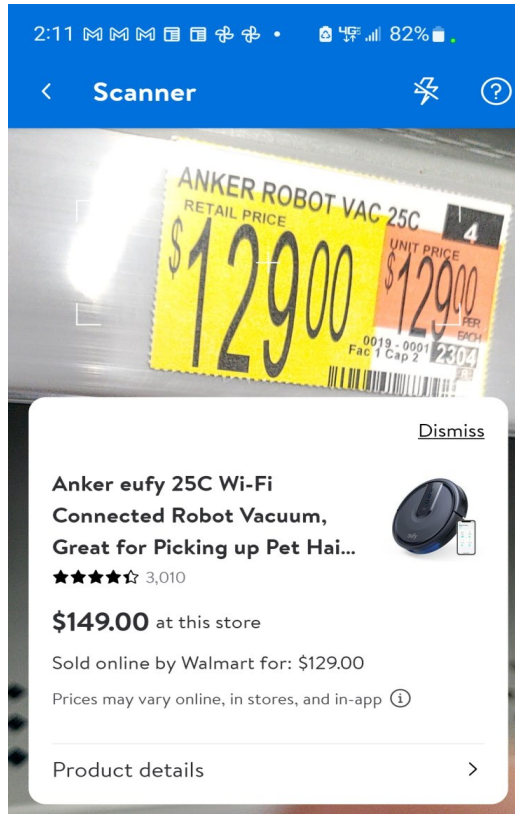
12. Mispriced items were confirmed by comparison of the shelf-tag price with Walmart's in-store price scanner in their mobile app (which reflects the price at the register); some items were additionally confirmed through actual purchase at the register.

13. The following pages contain examples of these mispriced items, with the dates and details of the mispricing, and imaging of the shelf-tag price alongside the in-store scanner price² and/or an image of the physical receipt.

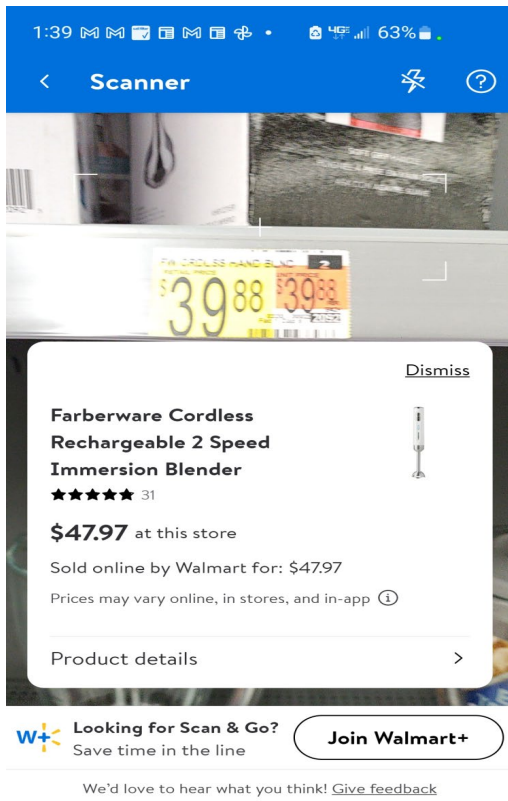
¹ A third Walmart store, located at 99 H St. NW, Washington (the "H Street" location), closed on approximately March 31, 2023. An initial investigation of the H Street location undertaken by Plaintiff's counsel prior to its closing uncovered mispricing at that location as well. However, an extensive investigation of that store could not be completed.

² For the images of the shelf-tag and in-store scanner price, these are a screenshot of the investigator's phone. When the Walmart mobile app's in-store scanner feature is opened, the phone's camera is accessed. A consumer can then scan the shelf-tag's barcode with the camera, and the app will display the price at the bottom of the screen. A screenshot taken at that moment records the physical shelf-tag, as well as the app's display of the price, as seen below.

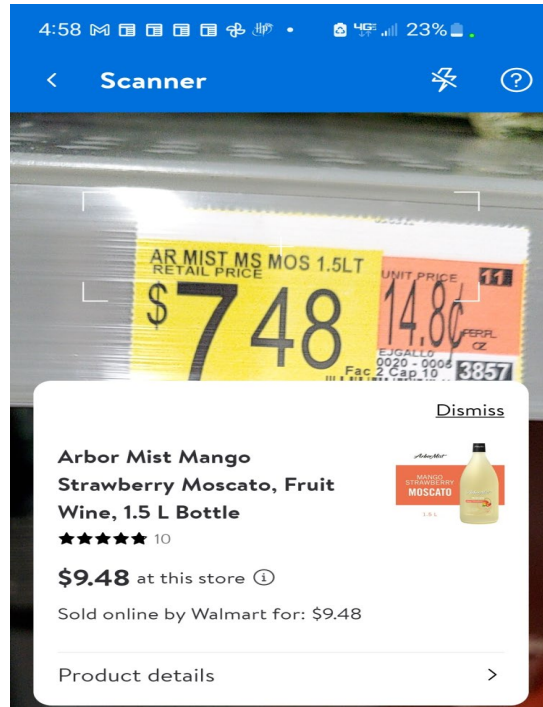
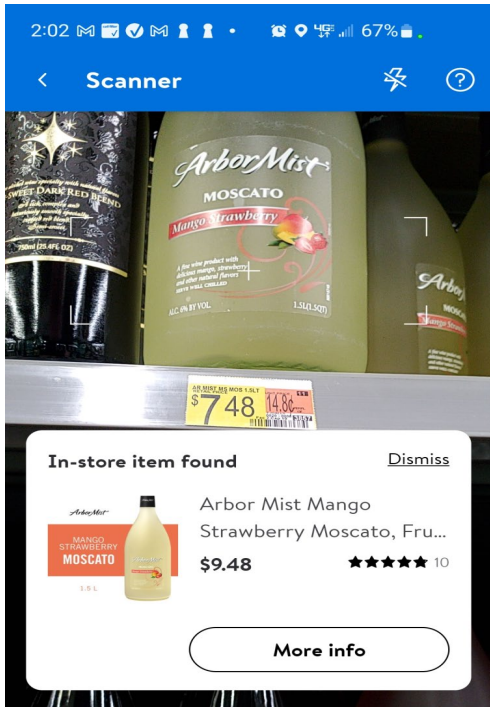
14. On August 24, 2022, at Walmart's Riggs Road location, the shelf-tag price for an Anker 25c Wi-fi Connected vacuum was \$129.00, but Walmart charged \$149.00 at the register (left image). This price discrepancy continued through at least September 6, 2022 (right image).



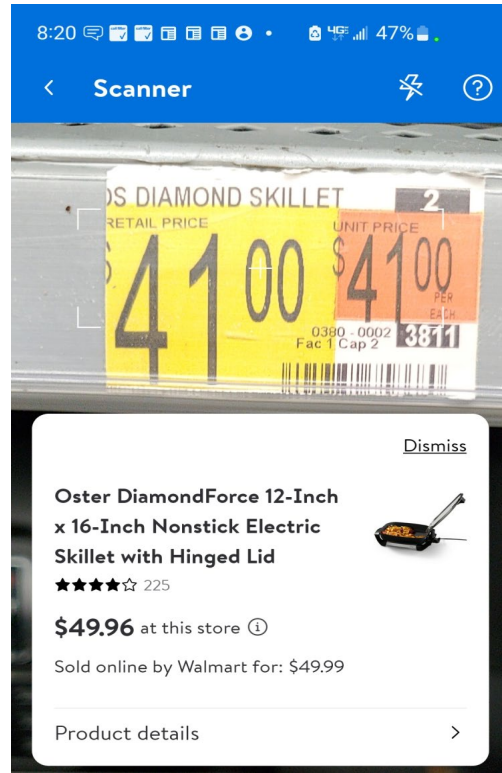
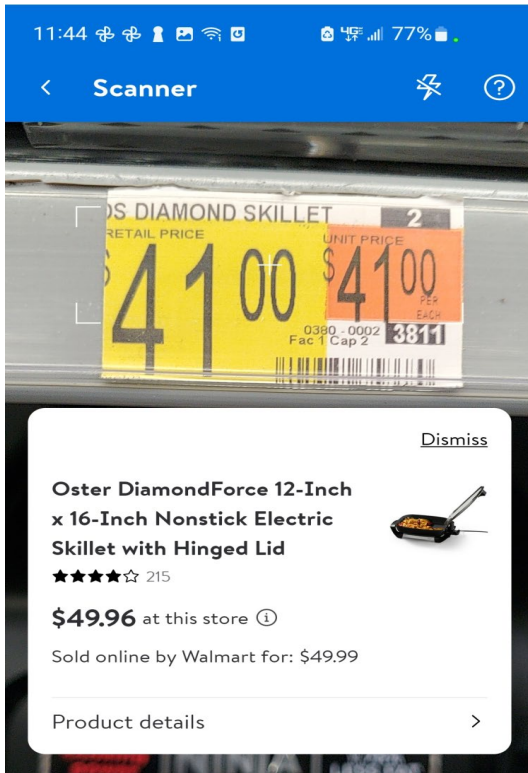
15. On August 24, 2022, at Walmart's Riggs Road location, the shelf-tag price for a Farberware Cordless 2 speed immersion blender was \$39.88, but Walmart charged \$47.97 at the register (left image). This price discrepancy continued through at least September 6, 2022 (right image).



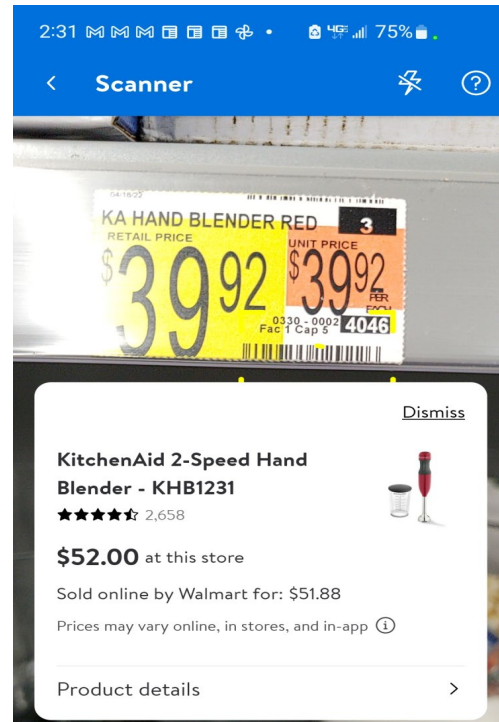
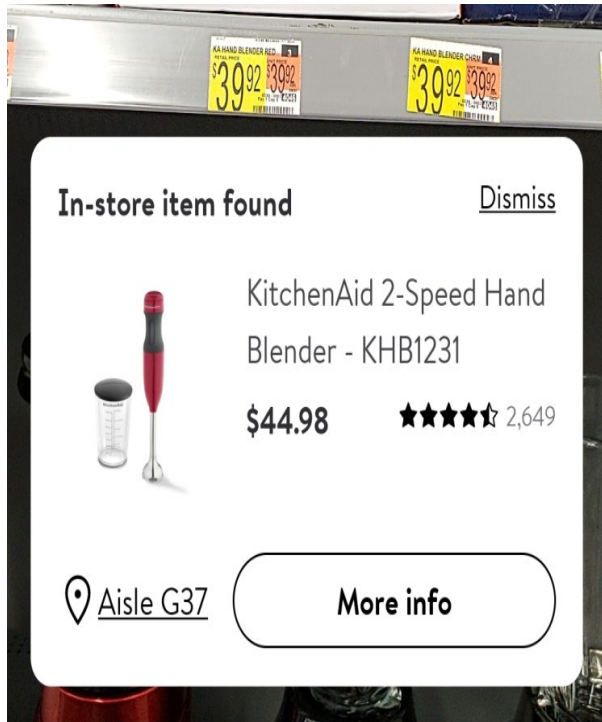
16. On June 17, 2022, at Walmart's Riggs Road location, the shelf-tag price for a bottle of Arbor Mist Mango Strawberry Wine was \$7.48, but Walmart charged \$9.48 at the register (left image). This price discrepancy continued through at least March 26, 2023 (right image).



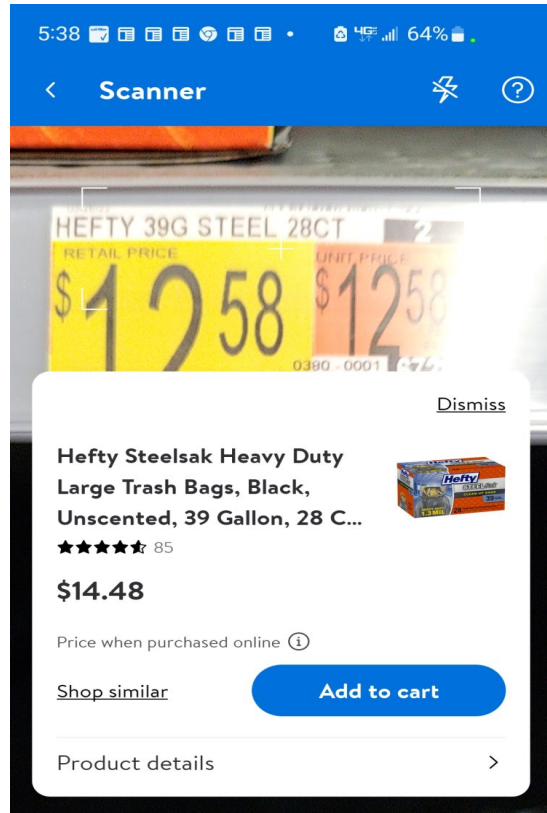
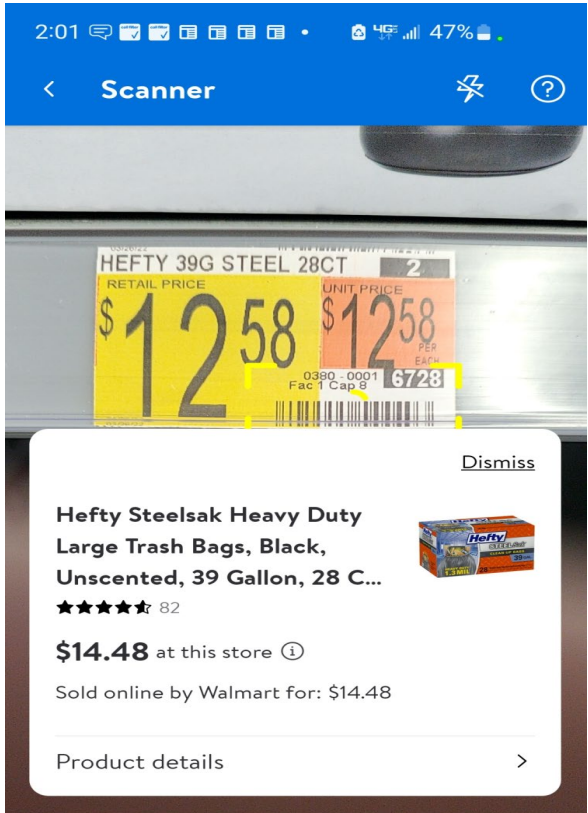
17. On November 6, 2022, at Walmart's Georgia Avenue location, the shelf-tag price for an Oster DiamondForce 12-inch x 16-inch nonstick electric skillet was \$41.00, but Walmart charged \$49.96 at the register (left image). The price discrepancy continued through at least January 30, 2023 (right image).



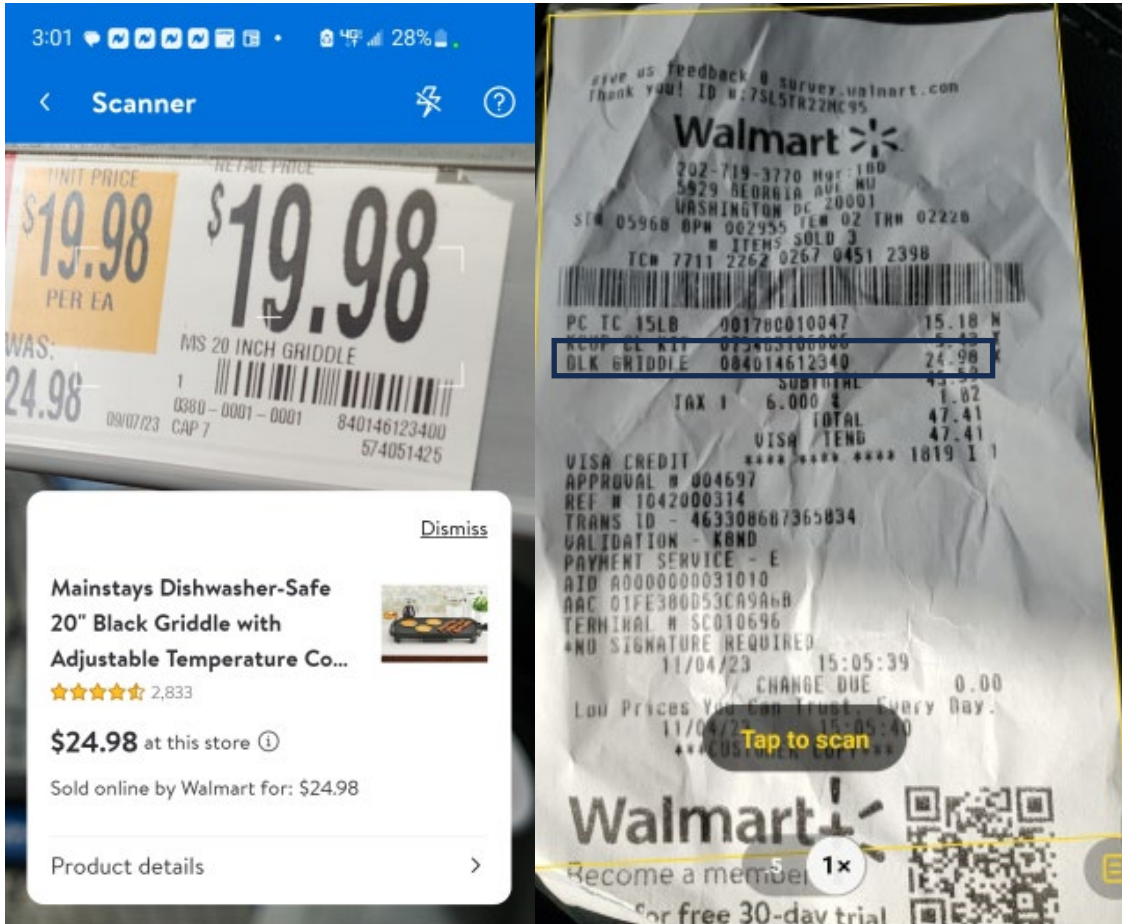
18. On June 6, 2022, at Walmart's Riggs Road location, the shelf-tag price for a KitchenAid 2-speed hand blender was \$39.92, but Walmart charged \$44.98 at the register (left image). The price discrepancy continued (and in fact the register price increased to \$52.00 with no correction to the shelf-tag), through at least September 6, 2022 (right image).



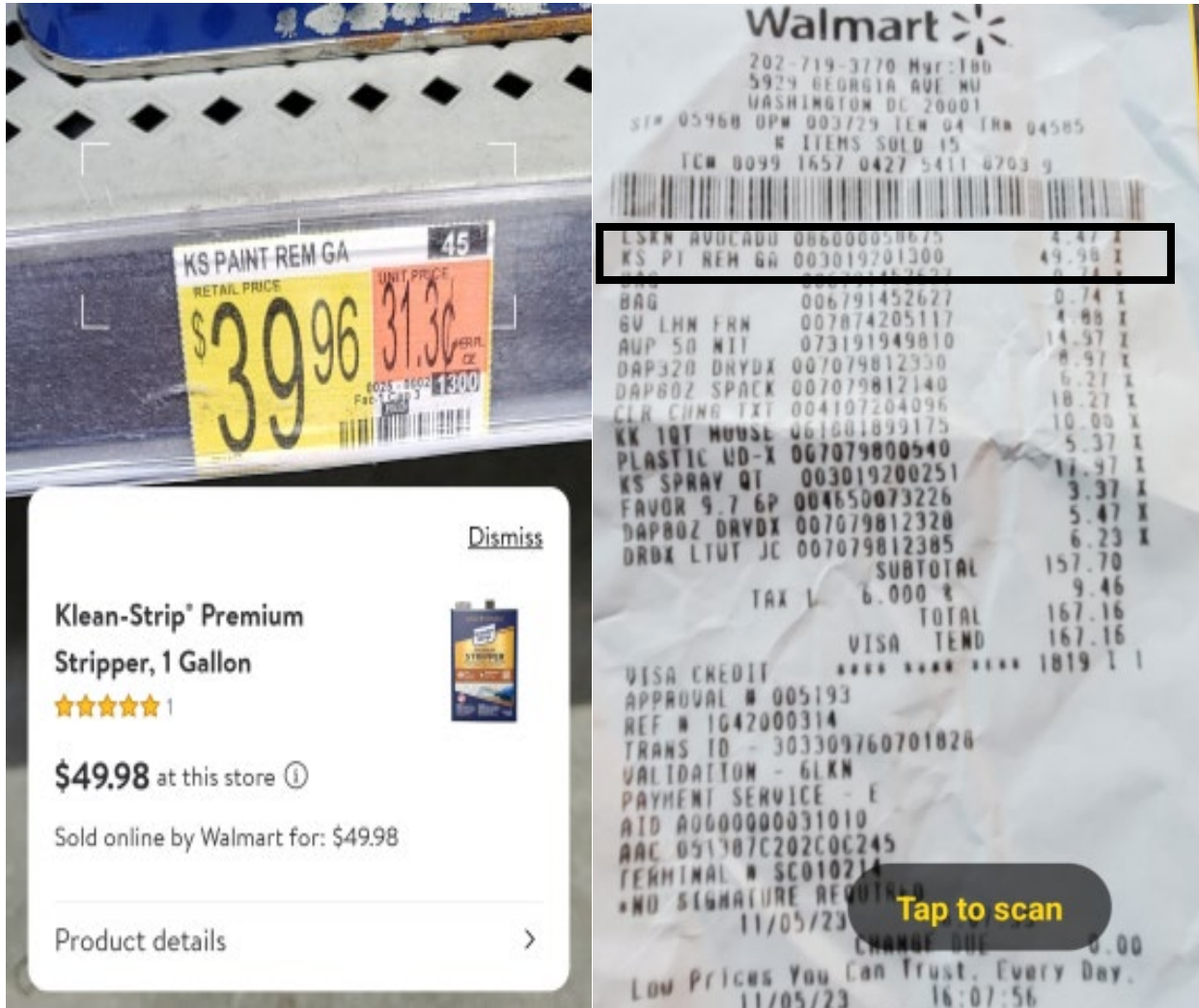
19. On November 22, 2022, at Walmart's Georgia Avenue location, the shelf-tag price for Hefty Steelsak large trash bags was \$12.58, but Walmart charged \$14.48 at the register (left image). The price discrepancy continued through at least March 15, 2023 (right image).



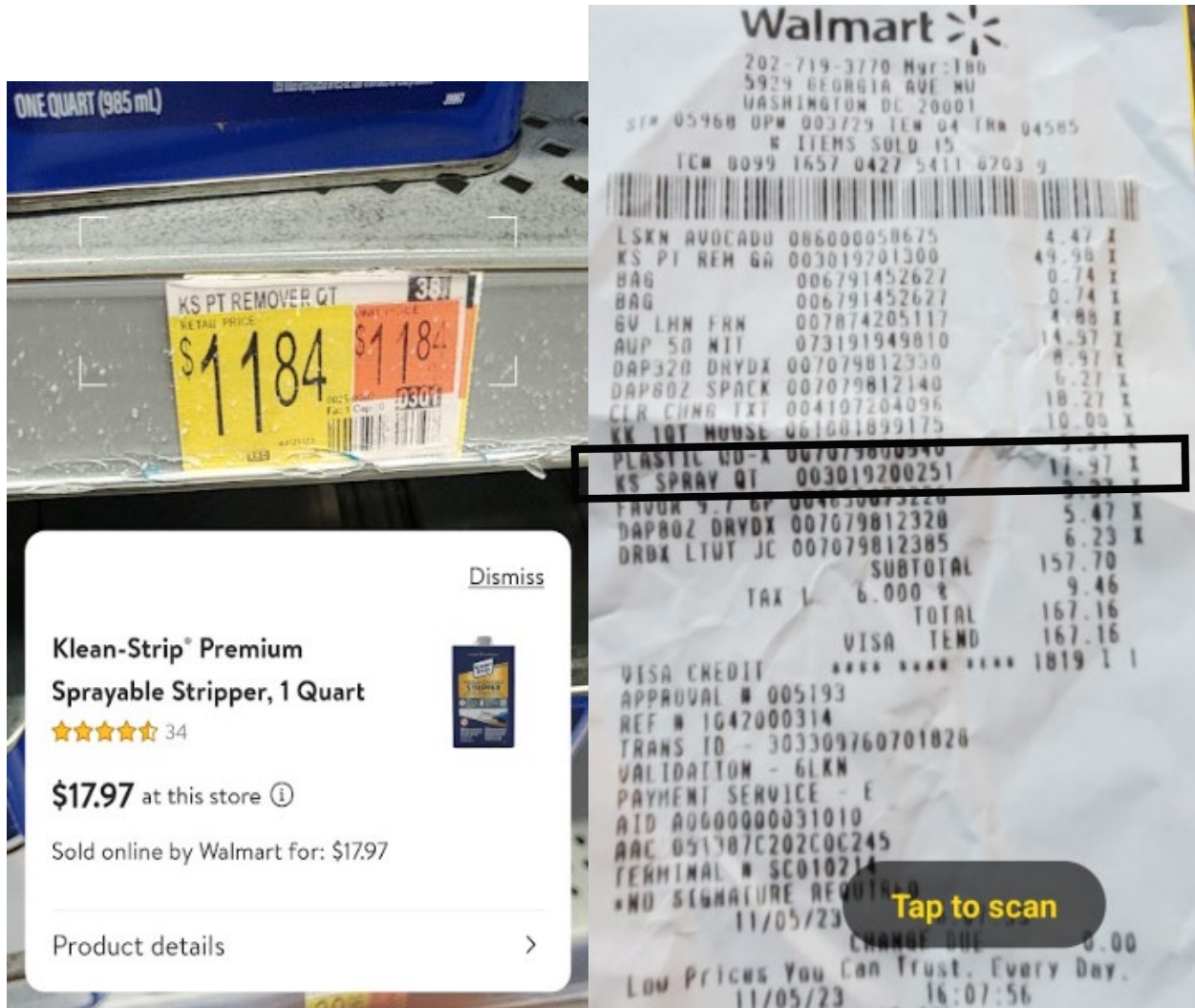
20. On November 4, 2023, at Walmart's Georgia Avenue location, the shelf-tag for a Mainstays 20-inch griddle was \$19.98, but Walmart charged \$24.98 at the register.



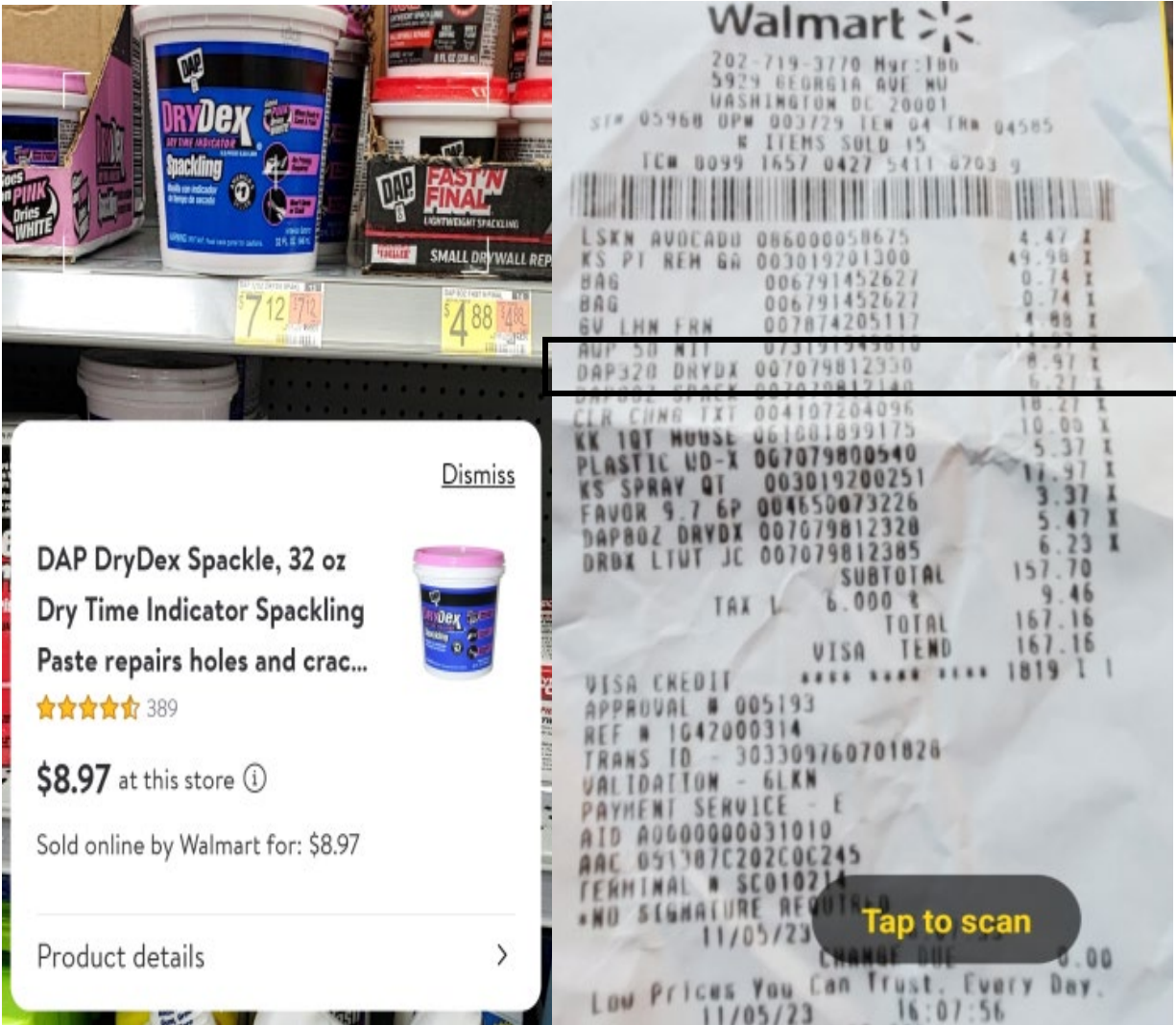
21. On November 5, 2023, at Walmart's Georgia Avenue location, the shelf-tag for a Klean Strip gallon container of paint remover was \$39.96, but Walmart charged \$49.98 at the register:



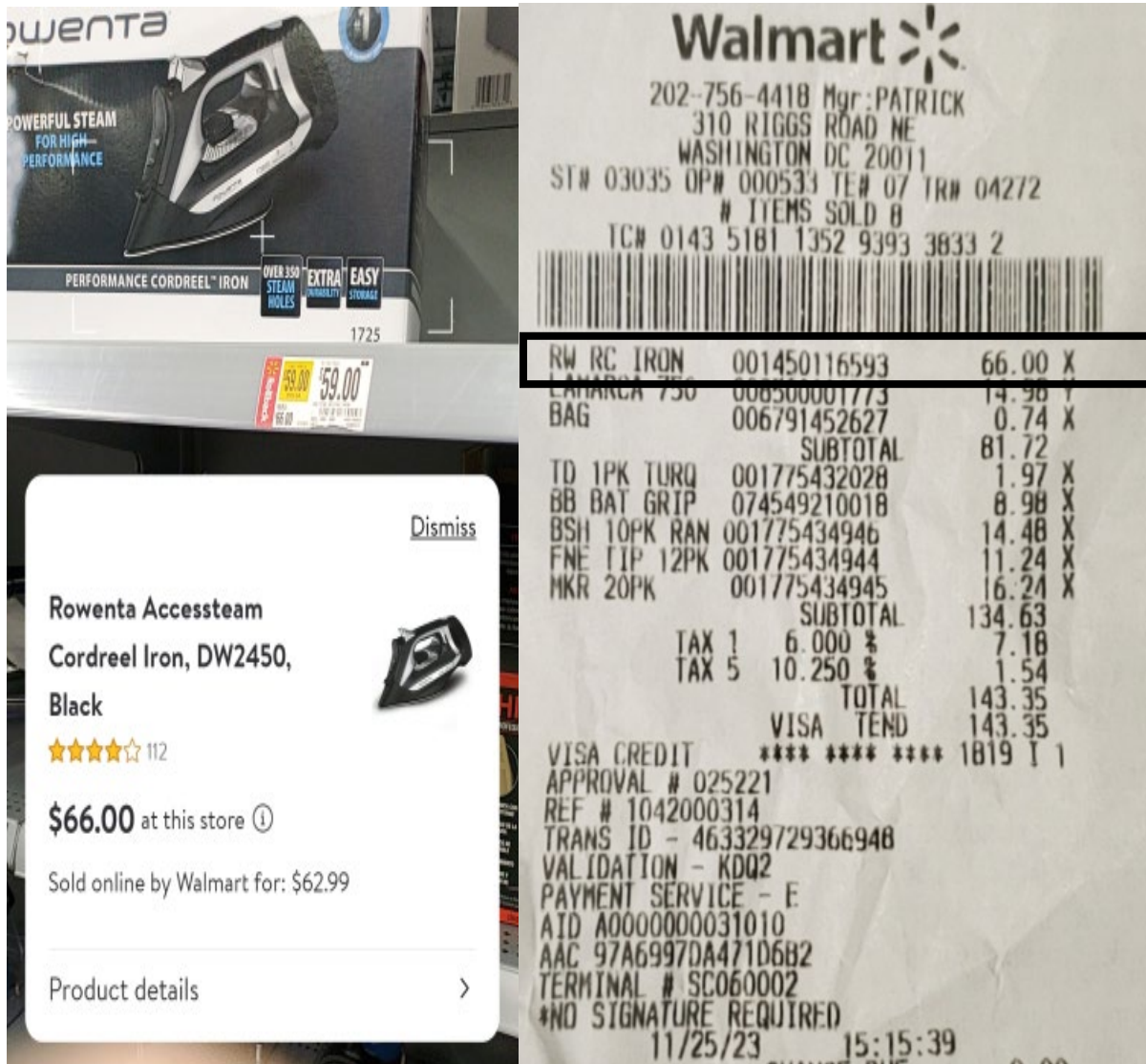
22. On November 5, 2023, at Walmart's Georgia Avenue location, the shelf-tag for a Klean Strip one-quart spray bottle of paint remover was \$11.84, but Walmart charged \$17.97 at the register:



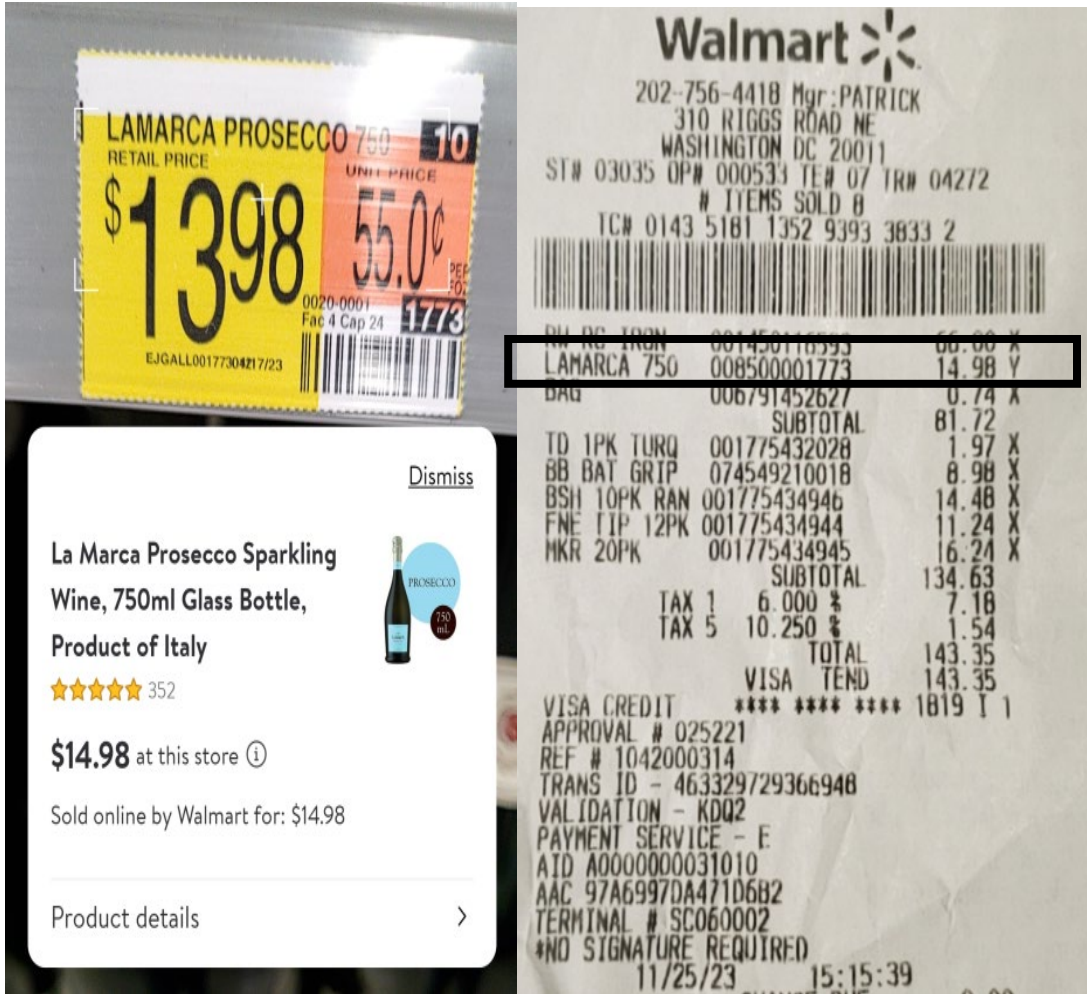
23. On November 5, 2023, at Walmart's Georgia Avenue location, the shelf-tag for a 32 oz. container of Drydax spackle was \$7.12, but Walmart charged \$8.97 at the register:



24. On November 25, 2023, at Walmart's Riggs Road location, the shelf-tag for a Rowenta clothing iron was \$59.00, but Walmart charged \$66.00 at the register:



25. On November 25, 2023, at Walmart's Riggs Road location, the shelf-tag for a bottle of La Marca Prosecco wine was \$13.98, but Walmart charged \$14.98 at the register:



26. On November 25, 2023, at Walmart's Riggs Road location, the shelf-tag for a baseball bat grip was \$6.48, but Walmart charged \$8.98 at the register:



27. At all relevant times, Walmart knew or should have known that many of its shelf-tag prices were different from the prices charged at the register.

28. At all relevant times, Walmart knew or should have known that it was engaged in the practice of failing to update shelf prices at its stores, including its Riggs Road and Georgia Avenue locations, and was therefore providing consumers with misleading and incorrect price information.

29. At all relevant times, Walmart did not disclose to shoppers that its shelf-tag prices may be different from the prices charged at the register.

30. Consumers expect shelf-tag prices to be correct.

31. This consumer expectation is reflected in vigorous enforcement actions and hefty penalties when state governments become aware of misleading pricing practices such as those alleged in this Complaint.

32. Attorneys General in several jurisdictions have sought and recovered fines and penalties from stores that have presented misleading price information on shelf tags.³

33. In *State of Missouri v. Walgreen Co.*, No. 1316-CV-21688 (Mo. Cir. Ct. June 17, 2016) (attached as Exhibit. B), the trial court imposed fines of \$1,000 per violation on Walgreens for violating a consent judgment requiring Walgreens to timely update its shelf tag prices. The court stated that “[i]nformation contained on a tag on the store shelf should be information upon which a consumer can reasonably rely.” *Id.* at pg. 9.

34. In *People v. Wal-Mart, Inc.*, No. 37-2008-00096757-CU-BT-CTL (Cal. Sup. Ct. San Diego March 21, 2012) (Modified Final Judgment attached as Exhibit C), Walmart was ordered to pay more than \$3 million for violating a consent judgment requiring Walmart to ensure its shelf tag prices were accurate and in accordance with the prices charged to the consumer.

35. In *People v. Target Corp.*, No. CIV 1500474 (Cal. Sup. Ct. Marin Cty. Feb. 9, 2015) (Final Judgment attached as Exhibit D), Target was ordered to pay \$3,352,500 in civil penalties for charging a price at the point-of-sale system that was different from the advertised

³ Regarding a \$500,000 settlement with Walgreens in 2016 for this practice, then New York AG Eric Schneiderman stated “when consumers purchase products at retail stores in New York, they should be able to rely on the prices displayed in advertisements and on shelf tags and not have to worry about being overcharged when they get to the register.” <https://www.nydailynews.com/news/politics/walgreens-duane-reade-overcharged-customers-probe-article-1.2609183> (last visited Aug. 24, 2023).

price. *Id.* at pp. 13-14. Target was also ordered to conduct weekly expired price audits by having personnel walk the entire store to search for and remove expired shelf tags. *Id.* at pg. 8.

PARTIES

36. Plaintiff Christina Rector is an adult resident of Washington, D.C. At various times in the three years prior to the filing-date of this complaint, Ms. Rector shopped at the Walmart stores located at 99 H Street, N.W., 5929 Georgia Avenue, N.W., and 310 Riggs Road, N.E. While shopping at these stores, Ms. Rector purchased items for which the price that Walmart charged at the register was higher than the price displayed on the shelf tag.

37. Defendant Walmart is a Delaware corporation with its principal offices and headquarters located in Bentonville, Arkansas.

38. Walmart, a mass merchandiser of consumer products, operates over 4,700 stores in the United States, including two stores in the District of Columbia.

JURISDICTION AND VENUE

39. The Court has subject matter jurisdiction under D.C. Code § 28-3905(k)(2).

40. The Court has personal jurisdiction over Walmart because Walmart conducts business in the District of Columbia, is registered to do business in the District of Columbia, and the conduct at issue occurred at Walmart stores in the District of Columbia.

41. Venue is proper in this forum because this Court has personal jurisdiction over Walmart.

FACTS REGARDING PLAINTIFF CHRISTINE RECTOR'S PURCHASES

42. Plaintiff Christine Rector purchased Tide laundry detergent for personal, household, or family purposes in approximately June of 2022, at the Walmart located at 99 H St. NW, Washington.

43. The shelf tag stated that the detergent was being offered at a price of \$9.99.

44. At the register, Plaintiff Rector was charged \$11.99.

45. Plaintiff Rector was charged more than the advertised price on the shelf tag.

46. By means of its shelf tag, Walmart advertised detergent as being available at a price of \$9.99 when Walmart had no intention of selling the product at that price and did not sell the product at that price.

47. Walmart did not disclose that its shelf tag price for detergent was different from its register price.

48. When Plaintiff Rector noticed the discrepancy and informed the cashier, the cashier told her she would still have to pay the higher register price. Because she was already at the register and needed laundry detergent, Plaintiff Rector paid the higher price.

49. Plaintiff Rector shopped for the same bottle of Tide laundry detergent, sometime between December 2022 and January 2023, at Walmart's Georgia Avenue location.

50. The shelf tag stated that the detergent was being offered at a price of \$9.99.

51. At the register, Plaintiff Rector was charged \$11.99.

52. Plaintiff Rector was charged more than the advertised price on the shelf tag.

53. By means of its shelf tag, Walmart advertised detergent as being available at a price of \$9.99 when Walmart had no intention of selling the product at that price and did not sell the product at that price.

54. Walmart did not disclose that its shelf tag price for detergent was different from its register price.

55. When Plaintiff Rector noticed the discrepancy and informed the cashier, she was again told that she would have to pay the register price. This time, rather than pay the higher price again, Plaintiff Rector left the detergent there.

56. Due to Walmart's practice of mispricing products on its shelf price tags, Rector was forced to spend time and resources traveling to another store to purchase the detergent.

57. Plaintiff Rector also purchased a package of Charmin toilet paper for personal, household, or family purposes in September of 2022 at the Riggs Road Walmart.

58. The shelf tag stated that the toilet paper was being offered at a price of \$7.99.

59. At the register, Plaintiff Rector was charged \$9.99.

60. Plaintiff Rector was charged more than the advertised price on the shelf tag.

61. By means of its shelf tag, Walmart advertised Charmin toilet paper as being available at a price of \$7.99 when Walmart had no intention of selling the product at that price and did not sell the product at that price.

62. Walmart did not disclose to Plaintiff Rector that its shelf tag price for Charmin toilet paper was different from its register prices.

63. When Plaintiff Rector noticed the misprice and requested a refund, she was again told that she would have to pay the higher price. Because she was already at the register and needed toilet paper, Plaintiff Rector paid the higher price.

64. As to each the above-described items purchased by Plaintiff Rector, Walmart misrepresented the price.

65. As to each of the above-described items purchased by Plaintiff Rector, Walmart concealed the actual price and instead represented that the items were sold at an incorrect price.

66. As to each of the above-described items purchased by Plaintiff Rector, Walmart advertised said items at a price at which it had no intent to sell them.

67. Price is important to Plaintiff Rector and other consumers in making shopping decisions.

68. Incorrect prices on shelf tags had a tendency to mislead Plaintiff Rector and other consumers.

FACTS REGARDING WALMART'S DATA COLLECTION

69. Upon information and belief, Walmart collects 2.5 petabytes of data from 1 million customers every hour.

70. Upon information and belief, one petabyte is equivalent to 20 million filing cabinets of text.

71. Upon information and belief, the data generated by Walmart every hour is equivalent to 167 times the books in the Library of Congress.

72. Upon information and belief, Walmart tracks and targets every consumer individually.

73. Upon information and belief, Walmart has customer data of close to 145 million Americans.

74. Upon information and belief, Walmart maintains for each customer detailed purchase data for each product purchased, including the universal product code (UPC), the price paid, the date of purchase, and the store at which the product was purchased.

75. For returns without receipts, Walmart can look up store purchases if the customer presents the debit or credit card used to make the purchase.

76. For example, in *Farneth v. Walmart Stores, Inc.*, Civil Action-Class Action, No. G.D. 13-11472, Allegheny County, Pennsylvania, Walmart was ordered to produce detailed information on thousands of transactions where the customer did not pay cash, including the customer's name and address, the date of the transaction, the address of the store, and the amount of the coupon tendered with the transaction.

CLASS ACTION ALLEGATIONS

77. Plaintiff brings this action pursuant to Rule 23(b)(3) of the Superior Court Rules of Civil Procedure on behalf of herself and all others similarly situated, as members of the following class:

All persons who, during the three-year period prior to the date of filing of this Complaint, were charged more for an item than the displayed shelf-tag price at a Walmart store located in Washington, D.C.

78. Excluded from the Class are (i) Walmart's employees; (ii) all persons who make a timely election to be excluded from the Class; and (iii) the Judge and staff to whom this case is assigned, and any member of the Judge's immediate family.

79. The class contains more than 40 class members.

80. Through an investigation by counsel, Plaintiff has identified more than 400 items for which Walmart charged consumers more than the shelf-tag price.

81. Plaintiff is an adequate class representative. Plaintiff has hired experienced class counsel to prosecute this claim. Plaintiff's interest in this litigation is identical to that of the putative class members: the recovery of statutory damages under D.C.'s Consumer Protection Procedures Act ("CPPA").

82. Plaintiff's claim and those of the putative class members involve common questions of law, including: (i) Is Walmart a merchant under the CPPA? (ii) Is price a material

term in a transaction involving the sale of goods to consumers? (iii) Would a reasonable person, while shopping, attach importance to the shelf-tag price? (iv) Did Walmart know or have reason to know that price was important to Plaintiff and the putative class members in making purchasing decisions? (v) Did Walmart disclose to Plaintiff and the putative class members that the price charged at the register would be higher than the shelf-tag price? (vi) Are Plaintiff and the class members entitled to recover statutory damages under the CPPA for Walmart's practice of offering items for sale at the shelf-tag price, but charging customers more than the shelf-tag price when they presented the items for purchase?

83. Plaintiff's claims are typical of the putative class members' claims because Plaintiff and the putative class members were injured through Walmart's uniform misconduct in charging more than the shelf-tag price for items. Plaintiff is pursuing the same claims and legal theories on behalf of herself and the putative class members, and there are no defenses that would render Plaintiff atypical.

84. A class action is superior to any other available means for the fair and efficient adjudication of this controversy. The damages for each putative class member are small compared to the expense that would be required to litigate the claims on an individual basis, and the legal issues are identical for every putative class member.

85. Upon information and belief, no putative class member has filed a separate action against Walmart with respect to practice of charging a higher price at the register for an item than the price reflected on the shelf tag, indicating that the putative class members have no interest in prosecuting their claims on an individual basis.

86. Given Walmart's uniform conduct, the simple nature of the transaction at issue (the selection and purchase of an item from Walmart), and uniform statutory damages for every putative class member, there should be no difficulties in managing this case as a class action.

87. The concentration of this litigation in this forum is desirable because the activity occurred in the District of Columbia, the claim is governed by District of Columbia law, and the majority of the class members are District of Columbia residents.

CAUSES OF ACTION

COUNT I

Violations of the District of Columbia's Consumer Protection Procedures Act DC Code §§ 28-3901, *et seq.*

88. Plaintiff re-alleges and incorporate herein all the foregoing allegations.

89. Plaintiff is, and was at all relevant times, a consumer as defined by D.C. Code § 28-3901(a)(2).

90. Plaintiff purchased items such as laundry detergent and toilet paper from Walmart for personal, household, or family purposes.

91. Walmart is, and was at all relevant times, a merchant, as defined by D.C. Code § 28-3901(a)(3).

92. Walmart in the ordinary course of business directly sells consumer goods to consumers like Plaintiff.

93. Price is a material term in the purchase of goods.

94. A reasonable person would attach importance to the price of consumer goods while shopping.

95. Walmart shoppers, including Plaintiff, find price information important and material in making purchasing decisions.

96. Walmart knows or has reason to know that its customers, including Plaintiff, regard or are likely to regard price as important in making purchasing decisions.

97. Walmart's marketing strategies frequently involve references to lower prices. For example, Walmart offers price "rollbacks" on certain items.⁴

98. At all relevant times, by mispricing items in their Washington, D.C. stores as described and set forth above, Walmart engaged in unfair and deceptive trade practices proscribed by D.C. Code § 28-3904.

99. Walmart violated § 28-3904(e) by misrepresenting a material fact which had a tendency to mislead.

100. The material fact that Walmart misrepresented was the price of items purchased by Plaintiff and the putative class members.

101. Walmart also violated § 28-3904(f) by failing to state a material fact when the failure tends to mislead.

102. The material fact that Walmart failed to state was that the shelf-tag prices of the items in its stores were lower than the prices charged at the register.

103. Consumers, including Plaintiff, expect a shelf-tag price to reflect the current price of an item, not an older, lower price.

104. Consumers, including Plaintiff, would find the true cost of items at Walmart stores to be important in making purchasing decisions.

⁴ A price rollback is a temporary price reduction on an item in a Walmart store. <https://www.8thandwalton.com/blog/walmart-rollback/#:~:text=What%20is%20a%20Walmart%20Rollback,%E2%80%9CWas%2FNow%E2%80%9D%20signing>. (last visited Oct. 9, 2023).

105. Walmart violated § 28-3904(h) by advertising and/or offering goods without the intent to sell them as offered.

106. Walmart advertised and/or offered goods to Plaintiff and the putative class members with the intent to sell them at higher prices.

107. At all times relevant hereto, Plaintiff acted reasonably by relying on Walmart's statements, advertisements, and representations as to the shelf price of its products.

108. Walmart's unfair and deceptive trade practices caused Plaintiff and the putative class members to suffer damages.

REQUEST FOR RELIEF

WHEREFORE, Plaintiff, individually and on behalf of the putative class members respectfully requests that the Court enter judgment in Plaintiff's favor and against Walmart as follows:

- A. Entering an Order that this case proceed as a class action, and appointing Plaintiff and Plaintiff's counsel as representatives for the class;
- B. Entering an Order enjoining Walmart from continuing its unlawful conduct (§ 28-3905(k)(1)(D));
- C. Awarding statutory and punitive damages in an amount to be determined at trial ((§ 28-3905(k)(1)(A) and (C));
- D. Ordering Walmart to pay the attorney fees of Plaintiff and the putative class members ((§ 28-3905(k)(1)(B);
- E. Ordering such other and further relief as the Court deems just and proper.

JURY DEMAND

Plaintiff demands a trial by jury of all claims in this Class Action Complaint so triable.

Respectfully submitted,

/s/ Drew LaFramboise

Veronica Nannis, Esq. (# 485151)

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