November 26, 2025

California federal court denies motion to compel arbitration because checkout page lacked a sufficient prompt accompanying Terms of Service link

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Recently, a California federal court declined to send false pricing class claims to arbitration, holding that while the retailer's terms of service were reasonably conspicuous, the customer did not unambiguously manifest her assent to those terms. *Sanchez v. Maggy London Int'l Ltd.*, No. 3:25-CV-02107-H-JLB, 2025 WL 3097931 (S.D. Cal. Nov. 6, 2025).

In *Sanchez*, the plaintiff, Monica Sanchez, purchased a dress from defendant Maggy London International Ltd. ("Maggy London") that she alleged was subject to a "phantom discount" – i.e., that on the day she purchased the dress, Maggy London had listed a sales price next to a higher strikethrough price that allegedly was "not the 'prevailing market price' in the 90 days preceding the purchase." 2025 WL 3097931, at *1.

During checkout, Maggy London's website presented Ms. Sanchez with a "'Pay now' button with the words 'Refund policy,' 'Privacy policy,' and 'Terms of service' beneath in blue, underlined font," with all three phrases hyperlinking to the policies in question. *Id.* The Terms of service included an arbitration clause, outlined the procedures by which arbitration would be governed, and contained a class action waiver. *Id*. at *1-2. However, the checkout page did not require Ms. Sanchez to adopt or review the Terms of service. *Id.* at *1.

In July 2025, Ms. Sanchez filed a putative class action against Maggy London in California state court, asserting violations of California false advertising and unfair competition laws. *Id.* at *2. In August 2025, Ms. Sanchez filed a first amended class action complaint. *Id.* Maggy London removed the action to federal court on diversity grounds and filed a motion to compel arbitration of all claims. *Id.*

In November 2025, the California federal court denied Maggy London's motion to compel arbitration. The district court first held that the "font, color, placement, and underline" of Maggy London's Terms of service were

reasonably conspicuous such that the court could "fairly assume that a reasonably prudent Internet user would have seen it." *Id.* at *4 (citing *Berman v. Freedom Fin. Network, LLC*, 30 F.4th 849, 856 (9th Cir. 2022)). Specifically, the "font size, light blue color on a white background, underlining, and placement immediately below the 'Pay now' button make the terms of service both 'clearly legible to the naked eye' and indicative of a hyperlink." *Id.* (citing *Patrick v. Running Warehouse, LLC*, 2022 WL 10584136, at *5 (C.D. Cal. Oct. 18, 2022), *aff'd*, 93 F.4th 468 (9th Cir. 2024)).

However, the district court found that because Maggy London's "Pay now" button was not accompanied by "a prompt or advisal that Plaintiff's purchase would legally bind her," Ms. Sanchez "did not have the inquiry notice required to subsequently manifest assent." *Id.* (citing *Nguyen v. Barnes & Noble Inc.*, 763 F.3d 1171, 1178-79 (9th Cir. 2014)).

Despite allegations that Ms. Sanchez was a "serial litigant with a history of bringing identical and similar claims," the court nonetheless found that her role as a "tester" alone did not establish actual notice. *Id.* & n.1.

Takeaway: *Sanchez v. Maggy London* serves as a helpful reminder that Ninth Circuit arbitrability case law demands more than a conspicuous terms of service hyperlink – retailers with an online presence should also ensure that a prompt or advisal accompanies their terms of service links to demonstrate consumers have manifested assent.