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

GEORGE ABDELSAYED and FRANK
CIGLAR, individually and on behalf of all
others similarly situated,

Plaintiffs,

v.

MARRIOTT INTERNATIONAL, INC., a
Delaware corporation;

Defendant.

**'21CV402 BEN JLB
CLASS ACTION COMPLAINT**

JURY TRIAL DEMANDED

1 approximately 60 hotel properties located in the San Diego District. Marriott
2 conducts its hotel business through various corporate entities operating under
3 numerous trade names.¹ It offers lodging at its hotels to California residents,
4 including through its online reservation website and through various OTAs. These
5 websites are supposed to allow consumers to obtain accurate information about
6 Marriott's hotel rooms and allow consumers to accurately compare Marriott's hotel
7 room prices to that of other hotels as well as make hotel reservations.

8 5. Marriott markets, advertises, and promotes its hotel rooms by
9 advertising daily room rates on its own website and the websites operated by OTAs.
10 Marriott's official website and the websites operated by the OTAs enable consumers
11 to search for and sort through hotel accommodations by price according to the listed
12 daily room rate. Emphasis is placed on daily rates and prices through the search and
13 sorting functions of these sites, and consumers are able to cross-compare prices
14 among various hotels in real time. Countless consumers use the websites operated
15 by Marriott and the OTAs to compare the price of hotel rooms offered by Marriott
16 and other hotels and to select and book a hotel room online.

17 6. In fact, JD Power and Associates found that price and location are
18 among the top factors in picking a hotel, according to a new study of more than
19 200,000 hotel guests from eight countries.² Marriott capitalizes on this fact by
20 positioning itself as having cheaper rooms, when in reality, its rooms contain hidden
21 fees, and/or are more expensive than the advertised price.

22
23
24 ¹ Marriott hotels operate under at least the following trade names" Starwood, St. Regis, The Luxury
25 Collection, W, Westin, Le Méridien, Sheraton, Tribute Portfolio, Four Points by Sheraton, Aloft,
26 Element, The Ritz-Carlton, Design Hotels, Bvlgari Hotels & Resorts, Edition, JW Marriott,
Autograph Collection Hotels, Renaissance Hotels, Marriott Hotels, Delta Hotels and Resorts,
Springhill Suites by Marriott, Fairfield Inn & Suites, TownePlace Suites by Marriott, and Moxy
Hotels.

27 ² <https://skift.com/2013/09/30/price-and-location-are-the-most-important-factors-in-picking-a-hotel/> (last visited March 3, 2020)

1 7. Marriott charges fees that are characterized in different ways, some of
2 which are mandatory which it refers to as “resort fees,” “destination amenity fees,”
3 “amenity fees,” or “taxes and fees” (referred to collectively hereafter as “resort
4 fees”) on a daily basis for a room at many of its hotels. However, Marriott does not
5 include these daily fees in the room rate it advertises on its website in the room rate
6 advertised by the OTAs, thereby depriving consumers of the ability to readily
7 ascertain and compare the actual price of a room at a Marriott hotel to the bait price
8 of the bargain Marriott claims it is offering, or to the hotel rooms offered by
9 Marriott’s competitors and at other Marriott hotels.

10 8. After the initial price deception, when consumers select a room rate and
11 provide their credit card and other personal information to book a room, Marriott
12 then represents that the daily room rate at the hotel is less than it actually is because
13 it does not include the mandatory resort and other fees that Marriott adds to the daily
14 room charge. In many instances, Marriott includes the resort fees as part of a total
15 charge called “Taxes and Fees,” thus misleading consumers to believe the additional
16 fees they are paying are government-imposed, rather than a separate daily charge
17 imposed by and paid to Marriott. In some instances, the resort fees cover costs, such
18 as parking or wi-fi service, that Marriott advertises it provides as free or
19 complimentary or, alternatively, requires hotel guests to pay for separately, even
20 though Marriott has required them to pay the resort fee. When a consumer books
21 online, they cannot tell what is included in the room rate, what is included in the
22 “fee,” what is truly “free” or complimentary, or what they will be separately charged
23 for upon arrival and/or at checkout, well past the point the consumer could make an
24 informed decision.

25 9. Plaintiffs saw, read, and relied on Defendant’s false and misleading
26 representations that Marriott’s hotel rooms were cheaper than they actually were.
27 Plaintiffs would not have purchased or booked a room at a Marriott hotel room had

1 they know the true price. Thus, Plaintiffs bring this class action on behalf of
2 themselves and other purchasers of Marriott hotel rooms action to force Marriott to
3 stop utilizing “drip pricing” and advertise the true price Marriott hotel rooms, not its
4 false and misleading price, to consumers. Plaintiffs assert claims against Defendant
5 for violations of the California’s Consumers Legal Remedies Act (“CLRA”),
6 California’s False Advertising Law (“FAL”), and California’s Unfair Competition
7 Law (“UCL”), as well as for negligent misrepresentation, concealment/failure to
8 disclose, and unjust enrichment.

9 THE PARTIES

10 10. Defendant **Marriott International, Inc.** is a Delaware corporation and
11 is headquartered at 10400 Fernwood Road, Bethesda, MD 20817. Marriott manages
12 and franchises a broad portfolio of hotels and lodging facilities throughout the
13 United States and abroad, including approximately 60 facilities located in the San
14 Diego District.

15 11. Plaintiff **George Abdelsayed** resides in San Diego, California. Mr.
16 Abdelsayed booked a room at the Coronado Island Resort and Spa through
17 Marriott’s app in or around July 2020. Before booking his room, Mr. Abdelsayed
18 saw, read, and relied on the room price advertised by Marriott. Subsequently, Mr.
19 Abdelsayed was charged a resort fee for his stay. Mr. Abdelsayed learned that
20 Defendant had misleadingly advertised the hotel room rates and charges he was
21 paying for, and was unaware he was paying additional fees at the time he booked his
22 room. Mr. Abdelsayed would not have booked a Marriott hotel room, or paid the
23 same price for the Marriott hotel room, had he known the truth about Defendant’s
24 prices.

25 12. Plaintiff **Frank Ciglar** resides in Castro Valley, California. Mr. Ciglar
26 booked a room at a Marriott hotel through Marriott’s website in or around September
27 2019. Before booking his room, Mr. Ciglar saw, read, and relied on the room price

1 advertised by Marriott. Subsequently, Mr. Ciglar was charged a resort fee for his
2 stay. Mr. Ciglar learned that Defendant had misleadingly advertised the hotel room
3 rates and charges he was paying for, and was unaware he was paying additional fees
4 at the time he booked his room. Mr. Ciglar would not have booked a Marriott hotel
5 room, or paid the same price for the Marriott hotel room, had he known the truth
6 about Defendant's prices.

7 13. Plaintiffs are reasonable consumers and are not required to scrutinize
8 advertisements to ferret out misleading facts and omissions, and cannot ascertain
9 facts that are in Defendant's exclusive control. Defendant had exclusive control over
10 its pricing practices deliberately placed that information on its websites and OTAs.
11 Defendant, but not Plaintiff, knows and was warned that this advertising is in
12 violation of federal regulations and state law.

13 14. Plaintiffs reasonably assumed that the hotel reservations would conform
14 to the prices advertised by Defendant. However, instead of receiving the benefit of a
15 bargain room rate as quoted, Plaintiffs paid hotel charges that were not as advertised,
16 in violation of federal and state regulations.

17 15. Plaintiffs were unable to, and will not be able to in the future,
18 effectively compare hotel prices due to Defendant's misleading and deceptive
19 pricing scheme. Until Defendant changes its practices, Plaintiffs will be unable to
20 determine what their true hotel charges will be and what a specific fee covers, as
21 some Marriott hotels do not disclose what is and is not included in which fees, and
22 other Marriott hotels state that an amenity is both complimentary when it in fact is
23 being charged for in a fee.

24 16. If Defendant changes its practices and complies with federal and
25 California regulations, Plaintiffs remain interested in purchasing and booking
26 Defendant's hotel rooms.
27

1 **JURISDICTION AND VENUE**

2 12. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §
3 1332(d)(2)(A). There are more than 100 Class Members, and the aggregate claims of
4 all members of the proposed Class exceed \$5,000,000.00, exclusive of interest and
5 costs. At least one Class Member is a citizen of a state different than at least one
6 defendant.

7 13. This Court has supplemental jurisdiction over this action pursuant to 28
8 U.S.C. § 1367.

9 14. This Court has personal jurisdiction over Marriott International, Inc.
10 because it conducts substantial business within California and operates hotels
11 throughout the Southern District of California, including San Diego County.

12 15. Venue is proper in this Court under 28 U.S.C. § 1391(b) because
13 Defendant transacts significant business within this District and because Plaintiff
14 Abdelsayed purchased a stay at a Marriott hotel room in this District.

15 **FACTUAL BACKGROUND**

16 16. The emergence of OTAs has allowed consumers to shop for and
17 compare multiple hotel rooms and hotel brands with the click of a button.
18 Consumers may also use the hotels' own websites to cross-compare prices and
19 availability. Thus, consumers are able to make informed decisions about where to
20 stay based on the advertising and marketing materials found on OTAs and hotel
21 websites.

22 17. However, the use of online booking and OTAs has led to the deceptive
23 business practice of failing to include resort fees or other fees in the advertised price.
24 For example, Marriott will initially advertise a room rate that does not include a
25 resort fee, but then include it in the final charges a consumer is required to pay. This
26 is classic false bargain pricing and bait advertising enabled by drip and partition
27 pricing through manipulation of internet advertising. Marriott charges these

1 additional resort fees, which can amount to as much as \$95 a day at some Marriott's
2 properties while falsely appearing to deliver a bargain discount to increase its
3 revenues without appearing to raise the room rate at its hotels. Marriott does not
4 include these fees in the room rate because doing so would effectively increase the
5 price of a hotel room and consequently make its hotels less price competitive to
6 consumers when compared with the bargain price it claims to be offering and to
7 other hotels.

8 18. Marriott's practice of initially advertising only part of a price and then
9 later revealing other charges as the consumer completes the buying process has been
10 labeled "drip pricing" by the Federal Trade Commission ("FTC"). In November
11 2012, the FTC warned the hotel industry that drip pricing as it pertains to charging
12 resort fees violates federal consumer protection law when it misrepresents the price
13 consumers pay for their hotel rooms. The FTC specifically warned the hotels that
14 the largest and most prominent price for a hotel room should include the resort fee,
15 and should be provided to the consumer up front, and not later in the checkout
16 process, to avoid being deceptive drip pricing. Marriott received one of the FTC's
17 warning letters.

18 19. Notwithstanding these warnings from the FTC, Marriott continues to
19 bait consumers with false bargain advertised room prices that either do not include
20 its resort fees and/or deceptively obfuscate them, both on its own website and the
21 websites operated by OTAs. Marriott has continued this deceptive practice because
22 it has become a key profit center for the company, as it has reaped hundreds of
23 millions of dollars from expanding its use of resort fees over the past decade.

24 20. Marriott owns, manages or franchises at least 189 properties worldwide
25 that charge consumers resort fees ranging from \$9 to as much as \$95 per day. By
26 charging consumers fees in addition to the daily amount consumers must pay for
27 their rooms, Marriott makes hundreds of millions of additional dollars in revenue

1 without appearing to increase the price for which it initially offers its rooms.
 2 Marriott's unlawful trade practices has affected California consumers, as Marriott
 3 has charged resort and other deceptively labelled fees to tens of thousands of
 4 California consumers over the years, charging those consumers millions and millions
 5 of dollars.

6 21. Marriott also exercises control over the fees its hotels charge through its
 7 resort fee policies which give it the authority to determine what fees can be charged
 8 by the hotels it owns, manages or franchises. Although Marriott's Franchise
 9 Agreements typically allow its franchisees to set their own rates for guest room
 10 charges, these franchisees must still comply with Marriott's resort fee policy, which
 11 requires Marriott's approval and allows Marriott to control the resort fee they are
 12 permitted to charge. Moreover, under Marriott's Franchise Agreements, Marriott
 13 determines whether charges or billing practices are misleading or detrimental,
 14 including resort fees and other incremental fees or services that guests would
 15 normally expect to be included in the hotel room charge.

16 **The Booking Process Is Misleading**

17 22. When a consumer uses Marriott's website to search for a hotel room by
 18 destination and date, Marriott's website will list various hotels and rooms with
 19 matching availability:

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Destination
San Diego, CA

Stay Dates (1 NIGHT)
Fri, Sep 27, 2019 - Sat, Sep 28, 2019

Rooms & Guests
1 Room: 1 Adult/Room

EDIT

Marriott Marquis San Diego Marina
 333 West Harbor Drive San Diego, California 92101

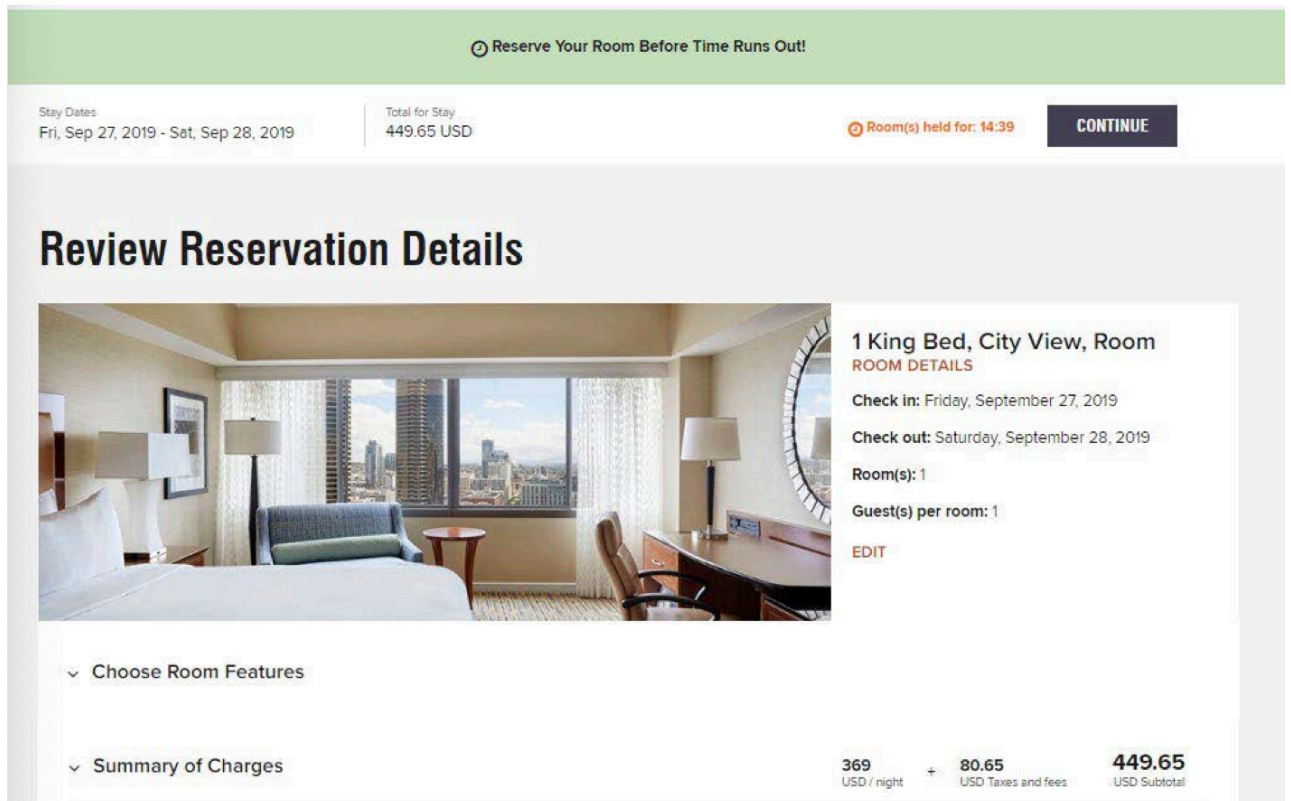
0.5 miles from destination | 4.5 3369 Reviews | Category 6

A waterfront San Diego hotel with elegant venues, outdoor pools, a gym, day spa and tasty dining.

From **351** USD / night **VIEW RATES**

1 23. At this initial stage, the quoted daily room rate for each hotel does not
2 include or mention the mandatory resort fee a consumer must pay. Once a consumer
3 selects a particular property, Marriott’s website directs the consumer to another
4 webpage that lists the rooms available at the selected property, along with the daily
5 rates for those rooms. This webpage displays a light blue box at the top of the page
6 that states that a “daily destination amenity fee will be added to the room rate”:

7 24. If a consumer then selects a specific room, Marriott’s website produces
8 a page where consumers can “review reservation details.” The “review reservation
9 details” page shows a picture of the room, details of the reservation, a drop-down
10 menu called “summary of charges,” and a “USD subtotal” which includes the
11 “USD/Night” and “USD Taxes and Fees.” A photo of this page is shown below:



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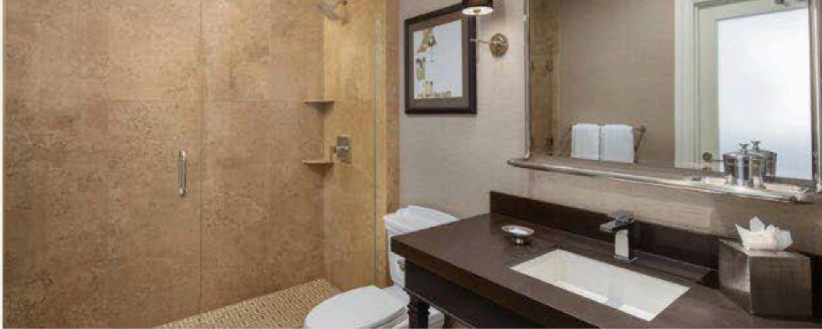
Stay Dates
Sat, Nov 23, 2019 - Sun, Nov 24, 2019

Total for Stay
359.74 USD

Room(s) held for: 14:10

CONTINUE

Review Reservation Details



1 King Bed, Superior Guest Room
ROOM DETAILS

Check in: Saturday, November 23, 2019
Check out: Sunday, November 24, 2019

Room(s): 1
Guest(s) per room: 1

EDIT

v Choose Room Features

^ Summary of Charges 319 USD / night + 40.74 USD Taxes and fees = 359.74 USD Subtotal

Regular Rate
RATE DETAILS

1 room(s) for 1 night(s)	Prices in USD
Saturday, November 23, 2019	319.00
<hr/>	
Total cash rate	319.00
Estimated government taxes and fees	40.74
<hr/>	
Total for stay in hotel's currency	359.74 USD

Additional Charges

On-site parking, fee: 49 USD daily
Valet parking, fee: 49 USD daily
Changes in taxes or fees implemented after booking will affect the total room price.

27. The difference between these properties highlights Marriott’s misleading tactics. Marriott presents “USD Taxes and Fees” to represent one component of the hotel room charge, regardless of whether it includes an amenity fee or not. Additionally, Marriott uses phrases like “Reserve Your Room Before Time Runs Out” to encourage consumers to move quickly through the booking process.

28. Unfortunately for consumers, Marriott’s website is also misleading because of inconsistent representations regarding what amenities are covered by the

1 amenity fee or are offered complimentary. For example, Marriott advertises that the
2 amenity fee “includes high speed Internet/resort equipment rentals/fitness classes and
3 more”:

The screenshot displays the Marriott website interface for the Coronado Island Marriott Resort & Spa. At the top, the hotel name and address (2000 Second Street, Coronado, California 92118 USA) are visible, along with a 4.4 rating and 1205 reviews. The search parameters are set for dates from Friday, Nov 22, 2019, to Saturday, Nov 23, 2019, for 1 room with 2 adults. Below the search bar, there are two tabs: 'Standard Rates' (From 227 USD / night) and 'Deals and Packages' (From 254 USD / night). A blue information banner states: 'Please note-US\$40 daily resort fee added to room rate includes high speed Internet/resort equipment rentals/fitness classes and more.' Another banner says: 'To book an accessible room, select a room type first.' The main section shows a 'Guest room, 1 King or 2 Double, Sofa bed, Resort view' with a 'Room Details' link. Two rate options are listed: 'Member Rate' at 227 USD / night and 'Regular Rate' at 239 USD / night, each with a 'SELECT' button.

15 29. Despite indicating that these services are included in the amenity fee,
16 Marriot advertises that fitness classes are “[c]omplimentary” and that the “[f]itness
17 center is free of charge for hotel guests”:

18 30. Marriott likewise fails to include resort fees and other similar fees in the
19 rates advertised by OTAs. For example, Expedia does not include or even mention
20 any resort or amenity fee in the advertised rates. In fact, it takes several pages for the
21 consumer to get to the “Details” of what is included in the “Taxes and Fees” and
22 “Mandatory property fee.” There, “Property fees” include a “Resort fee” that covers
23 “Beach loungers,” “Fitness/yoga classes,” “Sporting facilities or equipment,”
24 “Internet access,” and “Additional inclusions”:

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Expedia Sign in

Secure booking — only takes 2 minutes! Book online or call 1-800-391-5807

✔ You've picked a winner! This hotel is rated 4.3/5.

Sign in to earn 478 Expedia Rewards points

Room 1: 2 Adults, Non-smoking
✔ Free WiFi

Contact name *
First and last name

Mobile phone number *
USA +1 So the property can reach you

Receive text alerts about this trip. Message and data rates may apply.
Bedding requests
Special requests

Almost there! 6 other people viewing this property right now.

Only 5 left of this room type on Expedia!

Protect your hotel Recommended

Protect what you care about most:

- Up to 100% hotel refund if you're sick and have a late cancellation
- Up to 100% refund on unused hotel nights if you're sick and need to come home early
- Up to \$150 for a hotel or meals if your trip is delayed
- Up to \$150 for essentials if your bag is delayed

[View insurance details and disclosures](#)

Select Yes or No to continue booking *

Yes, I'd like to purchase Booking Protection **\$5** per person

Coronado Island Marriott Resort & Spa

4.3/5 Excellent (1,315 reviews)

1 Room: Room, Resort View (1 King or 2 Double bed)

Check-in: Fri, Nov 22
Check-out: Sat, Nov 23
1-night stay

✔ Free cancellation before **Tue, Nov 19**

Your price summary

Mandatory property fee: Collected by property. [Details](#)

Room 1: 2 Adults	avg./night
1 Night	\$239.00
Taxes & Fees	\$27.14
Trip Total:	\$266.14

Rates are quoted in US dollars. Taxes and Fees due at the property are based on current exchange rates, and are payable in local currency.

Earn 50,000 Expedia Rewards bonus points
after qualifying purchases with the Expedia Rewards Voyager Card from Citi.
[Learn more and apply](#)

Property fees
You'll be asked to pay the following charges at the property:

- Resort fee (August - August): USD 40.00 per accommodation, per night

The resort fee includes:

- Beach loungers
- Fitness/yoga classes
- Sporting facilities or equipment
- Internet access
- Additional inclusions

31. Again, just like Marriott’s own websites, OTAs like Expedia may advertise that the room includes free Internet, while at the same time indicate that “Internet access” is included in the “Resort fee.” OTAs like Expedia also encourage consumers to book quickly through the use of a stopwatch and banners like “Only five left of this room type on Expedia.”

32. All of these tactics are detrimental to consumers because the advertised total for Marriott’s hotel rooms are not the true total. Consumers may not be able to see or find the details of the charges, and thus do not know that they may be required to pay additional fees once they arrive at the hotel. Likewise, consumers may not know what is included in the total amount, and whether a resort fee is even included or what is included in that resort fee.

1 33. Additionally, Marriott also uses strike through price bargaining to offer
 2 consumers bait prices. This practice violates the prohibition against misleading
 3 bargain advertising set forth in 16 CFR § 233.1: “[Where] where an artificial,
 4 inflated price was established for the purpose of enabling the subsequent offer of a
 5 large reduction - the “bargain” being advertised is a false one; the purchaser is not
 6 receiving the unusual value he expects. In such a case, the “reduced” price is, in
 7 reality, probably just the seller's regular price.” Likewise, this practice violates 16
 8 CFR § 238.0: “Bait advertising is an alluring but insincere offer to sell a product or
 9 service which the advertiser in truth does not intend or want to sell. Its purpose is to
 10 switch consumers from buying the advertised merchandise, to sell something else,
 11 usually at a higher price or on a basis more advantageous to the advertiser. The
 12 primary aim of a bait advertisement is to obtain leads as to persons interested in
 13 buying merchandise of the type so advertised.”

14 34. The drip and partition pricing is easily seen on Marriott’s website:



21 35. However, when consumers go to reserve the room, the prices suddenly
 22 include additional fees, and the rates are no longer the same as the strike-through
 23 price advertised:

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Property fees

You'll be asked to pay the following charges at the property:

- Resort fee (August - August): USD 40.00 per accommodation, per night

The resort fee includes:

- Beach loungers
- Fitness/yoga classes
- Sporting facilities or equipment
- Internet access
- Additional inclusions

Mandatory property fee: Collected by property.
[Details](#)

Room 1: 2 Adults	avg./night
3 Nights	\$192.01
Fri, Nov 22	\$195.01
Sat, Nov 23	\$195.01
Sun, Nov 24	\$186.00
Taxes & Fees per night	\$21.98
Trip Total:	\$641.96

Rates are quoted in **US dollars**. Taxes and Fees due at the property are based on current exchange rates, and are payable in local currency.

36. Defendant does not disclose any of these costs up front, and uses these tactics to trick consumers into thinking that they are getting a bargain price, when in reality, they are not.

//

CLASS ACTION ALLEGATIONS

1
2 37. Plaintiffs seek to represent a class defined as all persons in the United
3 States who purchased, or booked a stay at a Marriott owned or franchised hotel room
4 and stayed in any such room for overnight accommodation and were charged an
5 amount therefore that was higher than the room rate quoted or advertised per day
6 plus government-imposed taxes and government imposed in their respective state of
7 citizenship on or after March 3, 2012 to the present (the “National Class”). Excluded
8 from the Class are governmental entities, Defendant, Defendant’s affiliates, parents,
9 subsidiaries, employees, officers, directors, and co-conspirators, and anyone who
10 purchased or booked a stay at a Marriott owned or franchised hotel room for resale.
11 Also excluded is any judicial officer presiding over this matter and the members of
12 their immediate families and judicial staff.

13 38. Plaintiffs also seek to represent a subclass defined as all members of the
14 Class who purchased, or booked a stay at a Marriott owned or franchised hotel room
15 and stayed in any such room for overnight accommodation and were charged an
16 amount therefore that was higher than the room rate quoted or advertised per day
17 plus government-imposed taxes and government imposed in their respective state of
18 citizenship within the state of California (the “California Subclass”) at any time from
19 March 3, 2012 to the present.

20 39. Members of the Class and the Subclass are so numerous that their
21 individual joinder herein is impracticable. The precise number of Class Members
22 and their identities are unknown to Plaintiffs at this time but will be determined
23 through discovery of Defendant’s records. Class Members may be notified of the
24 pendency of this action by mail, email, and/or publication.

25 40. This suit seeks damages and equitable relief for recovery of economic
26 injury on behalf of the Class and Subclass. Plaintiffs reserve the right to modify or
27 expand the definition of the Class and Subclass to seek recovery on behalf of

1 additional persons as warranted as facts are learned in further investigation and
2 discovery.

3 41. Common questions of law and fact exist as to all Class Members and
4 predominate over questions affecting only individual Class Members. These
5 common legal and factual questions include, but are not limited to:

- 6 (a) Whether the marketing and advertisements for the Marriott hotel
7 rooms included false and/or misleading statements and/or omissions;
8 (b) Whether Defendant's conduct violated the CLRA;
9 (c) Whether Defendant's conduct violated the FAL;
10 (d) Whether Defendant's conduct violated the UCL;
11 (e) Whether Defendant was unjustly enriched; and
12 (f) Whether Defendant's conduct was fraudulent.

13 42. Plaintiffs' claims are typical of the claims of the proposed Class and of
14 the Subclasses they seek to represent. Each Class Member was subjected to the same
15 illegal conduct, was harmed in the same way and has claims for relief under the same
16 legal theories.

17 43. Plaintiffs are adequate representatives of the Class and of the Subclass
18 they seek to represent because their interests do not conflict with the interests of the
19 Class and Subclass Members they seek to represent, they have retained counsel
20 competent and experienced in prosecuting class actions, and they intend to prosecute
21 this action vigorously. The interests of Class and Subclass Members will be fairly
22 and adequately protected by Plaintiffs and their counsel.

23 44. The class mechanism is superior to other available means for the fair
24 and efficient adjudication of the claims of Class and Subclass Members. Each
25 individual Class and Subclass Member may lack the resources to undergo the burden
26 and expense of individual prosecution of the complex and extensive litigation
27 necessary to establish Defendant's liability. Individualized litigation increases the

1 delay and expense to all parties and multiplies the burden on the judicial system
2 presented by the complex legal and factual issues of this case. Individualized
3 litigation also presents a potential for inconsistent or contradictory judgments. In
4 contrast, the class action device presents far fewer management difficulties and
5 provides the benefits of single adjudication, economy of scale, and comprehensive
6 supervision by a single court on the issue of a defendant’s liability. Class treatment
7 of the liability issues will ensure that all claims and claimants are before this Court
8 for consistent adjudication of the liability issues.

9 **COUNT I**

10 **Violations of California’s Consumers Legal Remedies Act (“CLRA”),**
11 **California Civil Code § 1750, *et seq.***
12 **(Injunctive Relief Only)**

13 45. Plaintiffs incorporate by reference and re-allege each and every
14 allegation set forth above as though fully set forth herein.

15 46. Plaintiffs bring this claim individually and on behalf of the members of
16 the proposed Class and California Subclass against Defendant.

17 47. Civil Code § 1770(a)(9) prohibits “[a]dvertising goods or services with
18 intent not to sell them as advertised.” Civil Code § 1770(a)(20) prohibits
19 “[a]dvertising that a product is being offered at a specific price plus a specific
20 percentage of that price unless (A) the total price is set forth in the advertisement,
21 which may include, but not limited to, shelf tags, displays, and media advertising in a
22 size larger than any other price in that advertisement, and (B) the specific price plus
23 a specific percentage of that price represents a markup from the seller’s costs or from
24 the wholesale price of the product.”

25 48. Defendant violated Civil Code § 1770(a)(9), and (a)(20) marketing and
26 falsely representing a lower discounted bargain hotel rental price online than what
27 consumers were actually charged.

1 falsely representing that its hotel rooms were a lower discounted bargain hotel rental
2 price online than what consumers were actually charged.

3 63. Defendant knew or should have known, through the exercise of
4 reasonable care, that their statements were untrue and misleading.

5 64. Defendant's actions in violation of the FAL were false and misleading
6 such that the general public is and was likely to be deceived.

7 65. As a direct and proximate result of these acts, consumers have been and
8 are being harmed. Plaintiffs and members of the Class and the California Subclass
9 have suffered injury and actual out-of-pocket losses as a result of Defendant's FAL
10 violation because: (a) Plaintiffs and the Class and the California Subclass would not
11 have purchased or booked Defendant's hotel rooms had they known the true price of
12 the rooms; (b) Plaintiffs and the Class and the California Subclass paid an increased
13 price for the hotel rooms; and (c) the rooms did not have the promised quantity or
14 value.

15 66. Plaintiffs bring this action pursuant to Bus. & Prof. Code § 17535 for
16 injunctive relief to enjoin the practices described herein and to require Defendant to
17 issue corrective disclosures to consumers. Plaintiffs and the Class and the California
18 Subclass are therefore entitled to: (a) an order requiring Defendant to cease the acts
19 of unfair competition alleged herein; (b) full restitution of all monies paid to
20 Defendant as a result of their deceptive practices; (c) interest at the highest rate
21 allowable by law; and (d) the payment of Plaintiffs' attorneys' fees and costs
22 pursuant to, *inter alia*, California Code of Civil Procedure §1021.5.

23 **COUNT IV**
24 **Concealment/Failure to Disclosure**

25 63. Plaintiffs incorporate by reference and re-allege herein all paragraphs
26 alleged above.

27 64. Plaintiffs bring this claim individually and on behalf of the members of
the proposed Class and Subclass against Defendant.

1 67. As discussed above, Defendant provided Plaintiffs and Class and
2 Subclass members with false or misleading material information and intentionally
3 failed to disclose material facts about its hotel rooms, including but not limited to
4 failing to disclose to Plaintiff and Class Members that Defendant would charge
5 additional fees for its hotel rooms beyond the advertised price, including amenity
6 fees, resort fees, destination fees, and others, as well as falsely representing a lower
7 discounted bargain hotel rental price online than what consumers were actually
8 charged.

9 65. Defendant had exclusive knowledge of the falsity of the representations
10 at the time of sale. The defect (the actual price of the hotel rooms upon checkout) is
11 latent and not something that Plaintiffs or the Class Members, in the exercise of
12 reasonable diligence, could have discovered independently prior to purchase. The
13 defect would not be disclosed by careful, reasonable inspection by the purchaser.

14 66. Defendant had the capacity to, and did, deceive Plaintiffs and the Class
15 Members into believing that they would pay the advertised price for the hotel rooms
16 upon checkout, when in reality, Plaintiffs and the Class Members were charged more
17 than the advertised price for the hotel rooms upon checkout.

18 67. Defendant undertook active and ongoing steps to conceal the actual
19 price of the hotel rooms. Plaintiffs are aware of nothing in Defendant's advertising,
20 publicity, or marketing materials that discloses the truth about the actual price of the
21 hotel rooms, including an adequate explanation of fees that are charged, despite
22 Defendant's awareness of the actual price that consumers would pay.

23 68. The facts concealed and/or not disclosed by Defendant to Plaintiffs and
24 the Class Members are material facts in that a reasonable person would have
25 considered them important in deciding whether to purchase a hotel room.

26 69. Defendant had a duty to disclose accurate information regarding the
27 actual price that consumers would pay for its hotel rooms upon checkout.

COUNT VI
Negligent Misrepresentation

1
2
3 77. Plaintiffs incorporate by reference and re-allege herein all paragraphs
4 alleged above.

5 78. Plaintiffs bring this claim individually and on behalf of the members of
6 the proposed Class and Subclass against Defendant.

7 79. Defendant represented that its hotel rooms were cheaper than they were
8 by advertising the hotel rooms at a lower price than the actual price that consumers
9 would pay upon check out. To communicate this representation and to convince
10 Plaintiff and the Class Members to purchase the hotel rooms, Defendant supplied
11 Plaintiffs and the Class Members with information, namely the misrepresentations
12 found on Defendant's websites and third-party booking websites. Defendant knew,
13 or should have known, that this information was false and/or misleading to Plaintiffs
14 and the Class Members.

15 80. The misrepresentations concerned material facts about the price of the
16 hotel rooms that influenced Plaintiffs and the Class Members to purchase the hotel
17 rooms.

18 81. At the time Defendant made the misrepresentations, Defendant knew or
19 should have known that the misrepresentations were false or Defendant made the
20 misrepresentations without knowledge of their truth or veracity.

21 82. The misrepresentations and omissions made by Defendant, upon which
22 Plaintiffs and Class and Subclass members reasonably, justifiably, and detrimentally
23 relied, caused damage to Plaintiffs and Class and Subclass members, who are
24 entitled to damages and other legal and equitable relief as a result. Plaintiffs and
25 Class Members have and will continue to suffer damages in the form of lost money
26 from the purchase price of the hotel rooms.
27

1 **PRAYER FOR RELIEF**

2 WHEREFORE, Plaintiffs, individually and on behalf of all others similarly
3 situated, seek judgment against Defendant, as follows:

- 4 a. For an order certifying the nationwide Class and the Subclass under
5 Rule 23 of the Federal Rules of Civil Procedure and naming Plaintiffs as
6 representatives of the Class and California Subclass, and Plaintiffs’
7 attorneys as Class Counsel to represent the members of the Class and
8 Subclasses;
- 9 b. For an order declaring the Defendant’s conduct violates the statutes
10 referenced herein;
- 11 c. For an order finding in favor of Plaintiffs, the nationwide Class, and the
12 Subclass on all counts asserted herein;
- 13 d. For compensatory, statutory, and punitive damages in amounts to be
14 determined by the Court and/or jury;
- 15 e. For prejudgment interest on all amounts awarded;
- 16 f. For an order of restitution and all other forms of equitable monetary
17 relief;
- 18 g. For an order requiring Defendant to undertake a corrective advertising
19 campaign;
- 20 h. For injunctive relief as pleaded or as the Court may deem proper;
- 21 i. For an order awarding Plaintiffs and the Class and Subclass their
22 reasonable attorneys’ fees and expenses and costs of suit; and
- 23 j. Granting such other and further relief as may be just and proper.

24 **DEMAND FOR TRIAL BY JURY**

25 Plaintiffs demand a trial by jury of all issues so triable.
26
27

1 Dated: March 5, 2021

BURSOR & FISHER, P.A.

2 By: /s/ L. Timothy Fisher

3
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ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Marriott Hit with Class Action Over Alleged Drip Pricing Scheme](#)
