

YES  NO

**EXHIBITS**

CASE NO. 22ch 6118

DATE: 6-24-22

CASE TYPE: Class Action

PAGE COUNT: 25

**CASE NOTE**

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3. The App is indisputably widely used by a large number of Americans. Indeed, it is the number one food and drink app on the Apple app store and has over ten million downloads on the Google Play store.<sup>1</sup>

4. The App is downloadable for “exclusive deals and easy ordering.”<sup>2</sup> Indeed, McDonald’s advertises that a benefit of downloading the App is because you can “[u]se the app to order ahead and pass the line with Mobile Order & Pay...”,<sup>3</sup> which allows McDonald’s customers to order their meal ahead on the App on their phones or other devices. They can then drive through the pick-up window to get their meal, have their meal delivered curbside, or they can enter the store to receive their meal.<sup>4</sup>

5. Defendant’s App controls the financial transactions made between Defendant and Plaintiff. McDonald’s requires a credit card to be on file on the App in order to place an order and does not allow refunds for any purchases made through the App.

6. Defendant is responsible for designing, developing, maintaining, and monitoring the accurate operational execution of the App so that any issues requiring resolution or anomalies requiring correction is the responsibility of Defendant and should be promptly and fairly resolved.

7. Due to the App’s poor and/or negligent design, the App fails to properly integrate interactions between the physical McDonald’s store and the App.

8. The App charges customers on the App for their purchases made on the App. However, this charge is not always communicated to the physical McDonald’s store.

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<sup>1</sup> See <https://www.similarweb.com/apps/top/apple/store-rank/us/food-drink/top-free/iphone/> and [https://play.google.com/store/apps/details?id=com.mcdonalds.app&hl=en\\_US&gl=US](https://play.google.com/store/apps/details?id=com.mcdonalds.app&hl=en_US&gl=US) (last accessed June 24, 2022).

<sup>2</sup> <https://www.mcdonalds.com/us/en-us/download-app.html>, (last accessed June 13, 2022).

<sup>3</sup> *Id.*

<sup>4</sup> <https://www.mcdonalds.com/us/en-us/mobile-order-and-pay.html>, (last accessed June 13, 2022).

9. Consequently, in order to receive their orders, customers may be forced to pay for their orders a second time or are charged twice for their orders.

10. Plaintiff brings this Action on behalf of McDonald's customers who are victims of an error in the coding of the App (the "Glitch") that has resulted in customers being charged twice for their Mobile Order & Pay orders made through the McDonald's App.

11. Moreover, the App purports to apply discounts in accordance with "Deals" that are offered from time to time, whereby the discount is promised to be applied *after* the order is executed and confirmed. However, customers, including Plaintiff, have experienced a full-price payment charge because the discount is not always applied as promised and advertised.

12. The Glitch occurs as follows: (1) the customer places an order through the McDonald's App and selects Mobile Order & Pay; (2) the customer provides payment for said order through the McDonald's App using either a credit or debit card, but, unknown to the customer, the order is not charged; (3) McDonald's, upon receiving the order, waits to charge the customer at the store, pursuant to McDonald's procedures regarding Mobile Order & Pay<sup>5</sup>; (4) McDonald's then tells the customer that they need to be charged in store by the store's point-of-sale system, so McDonald's takes the customer's credit or debit card and charges the customer at the store using their in-store point-of-sale system for the order placed through the McDonald's App; and (5) McDonald's subsequently charges the same customer again, who just paid in-store, but through the McDonald's App using the credit or debit card entered through the App initially.

13. The physical McDonald's stores claim to know nothing about the charges made by the App beyond whether payment was accepted or denied by the App.

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<sup>5</sup> *Id.*

14. This results in the customer being charged twice: once by the McDonald's in-store point-of-sale system and again for the same order through the McDonald's App.

15. Because the App and the physical stores are poorly/negligently integrated, the App often fails to refund customers their money. In fact, even though this is an issue long known to McDonald's (*see infra*), Defendant's website itself tells customers to appeal to their bank if they were double charged and the physical store will not refund their money.<sup>6</sup>

16. The App's customer support is also useless in respect to refunds, often telling users that it is the bank's duty to deny or reimburse the improperly charged amount.

17. This in turn leaves the App's customers with no simple solution regarding the funds that were improperly taken.

18. The McDonald's manager does not have the ability to refund the charge on the App.

19. On behalf of Plaintiff and all other McDonald's customers who were charged twice because of the Glitch and have experienced other issues while using the App, Plaintiff seeks damages, disgorgement of profit, punitive damages, restitution, injunctive relief requiring McDonald's to fix their McDonald's App, as well as reasonable attorneys' fees stemming from the unlawful profits that McDonald's has made as a result of double-charging its consumers.

20. McDonald's is and has been aware of the Glitch but has failed to remedy the problem or provide refunds to its customers who were overcharged or did not receive the discounts promised.

## II. PARTIES

### *Plaintiff George Keritsis*

21. Plaintiff George Keritsis is a resident and citizen of the state of Florida.

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<sup>6</sup><https://www.mcdonalds.com/us/en-us/faq/i-was-double-charged-at-mcdonald-s-today-how-do-i-get-my-money.html>

22. Plaintiff is a McDonald's customer who was charged twice as a result of the Glitch, as discussed herein. Due to Plaintiff being charged twice for the same meal, and due to the fact that McDonald's did not refund Plaintiff, Plaintiff has been damaged.

23. On April 29, 2022, Plaintiff placed an order through the McDonald's App for a large order of French fries to be picked up at a McDonald's store located at 40728 US HWY 19, North Tarpon Springs, Florida 34689.

24. Plaintiff's order total was \$1.07 and was assigned an order number, Order No. 99. Order No. 99 was also given a sequence number, Sequence No. 205400.

25. When he placed his order, Plaintiff provided payment information in the form of a credit card: his American Express card.

26. Then, when Plaintiff went to retrieve the order, Plaintiff was told that his American Express credit card payment did not go through via the McDonald's App and that he would need to provide a different method of payment in order to receive his order. He was required to physically pay at the McDonald's point-of-sale system located at that store.

27. Plaintiff provided an alternative method of payment through a Visa card.

28. Plaintiff was charged \$1.07 on his Visa card on April 29, 2022 at 4:48 PM.

29. Then, the App immediately processed Plaintiff's American Express card one minute later, at 4:49 PM.

30. Both receipts were with respect to the same order, Order No. 99, Sequence No. 205400. *See Exhibit 1*, attached hereto.

31. Plaintiff paid \$2.14 for a \$1.07 order: having paid once on his Visa card via the McDonald's store's point-of-sale system and then again on his American Express card one minute

later through the McDonald's App – even though he was told that the App could not process his payment method by a McDonald's drive-through window attendant in the McDonald's store.

32. On occasion, Plaintiff has also been promised a discounted "Deal" promotion by using the App's "Deal" feature but was instead charged full price contrary to the advertised promotion that was selected by the plaintiff.

33. On May 4, 2022, the App advertised a 20% off discount "Deal." Plaintiff made a \$1.69 purchase which totaled \$1.81 with tax. Plaintiff should have received a \$.34 discount but did not. *See Exhibit 2*, attached hereto.

34. On May 27, 2022 and May 30, 2022, Plaintiff received erroneous automated order text confirmations that were not initiated by Plaintiff. *See Exhibit 3*, attached hereto.

35. Due to Defendant's conduct, Plaintiff was damaged and distressed by the double charges, erroneous automated text confirmations, and other anomalies.

36. Plaintiff also spent time mitigating his losses and attempting to get a refund, for which he was unsuccessful. This loss of time compounded his injuries, adding lost valuable time in an effort to recover a sum (\$1.07), which McDonald's knew a customer would often find not worth the amount of time expended on it, giving McDonald's undeserved additional revenue and profits.

***Defendant McDonald's Corporation***

37. Defendant McDonald's Corporation is a Delaware corporation with its principal place of business in Chicago, Illinois.

### III. JURISDICTION

38. This Court has subject matter and personal jurisdiction over the parties to the causes of action alleged herein. Defendant is a citizen of Illinois and resides in Cook County, Illinois in the city of Chicago.

39. Consistent with the Due Process Clause of Fifth and Fourteenth Amendments, this Court has *in personam* jurisdiction over Defendant because McDonald's is headquartered in Cook County and conducts commerce in the state of Illinois and therefore is present in the state of Illinois such that requiring an appearance does not offend traditional notions of fair play and substantial justice.

### IV. FACTUAL ALLEGATIONS

#### *Defendant's Business*

40. McDonald's founder Ray Kroc established "McDonald's System, Inc., a predecessor of McDonald's Corporation" in 1955.<sup>7</sup> Kroc would eventually build a restaurant system that "would be famous for providing food of consistently high quality and uniform methods of preparation... serv[ing] burgers, fries, and beverages that tasted just the same in Alaska as they did in Alabama."<sup>8</sup>

41. Kroc's dream became reality and McDonald's now exists across the entire United States. As of 2020, there were 13,673 McDonald's locations in the United States – the most in the world.<sup>9</sup>

42. Currently, McDonald's has an extensive menu that includes traditional fast-food items, as well as desserts and other appetizers.

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<sup>7</sup> <https://www.mcdonalds.com/us/en-us/about-us/our-history.html>, (last accessed June 13, 2022).

<sup>8</sup> *Id.*

<sup>9</sup> <https://www.statista.com/statistics/256040/mcdonalds-restaurants-in-north-america/>, (last accessed June 13, 2022).



***Ordering Through the McDonald's App***

43. According to McDonald's, there are "three easy steps to order take-out in the McDonald's App":

- i. Order on Your Time: "Use our app to pick out your favorite McDonald's items a la carte or make a meal."
- ii. Pay: "Make your contactless payment using any major credit card. Your card will not be charged until you check in."
- iii. Pick Up on Your Terms: "Check in at any participating McDonald's restaurant to pick up your meal[,] get your food brought to you curbside, or grab their meal in the Drive Thru."<sup>10</sup>

44. Once the customer has completed this three-step process, they should be charged once for their meal that they ordered through the McDonald's App: at the time that the order is picked up by the customer at the respective McDonald's location where the order was processed.

***The Glitch***

45. Customers download the free McDonald's App in order to facilitate their interactions with McDonald's.

46. The McDonald's App has a defect within the App's coding that causes the Glitch, which can result in timely payment verification not being advanced to the location resulting in the consumer being forced to pay a second time on-site and in-person in order to receive their meal.

47. The McDonald's App and its physical stores are notoriously disconnected and suffer many issues, including additional unauthorized charges, as is the case here, allowing the purchase of McDonald's goods when the store is closed and inaccessible, generating anomalous

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<sup>10</sup> *Id.*

orders without the consumer's interaction or confirmation, and failing to properly refund customers when they request a refund.

48. The McDonald's stores claim they are not responsible for the App's erroneous performance.

49. Defendant's internal protocols, policies, procedures, or other systems, with respect to how they process orders through their App, have resulted in Defendant's customers being charged twice for their orders made through the process described above.

50. No contact telephone number is provided by the App through which customers may seek resolution.

51. McDonald's knows it is charging consumers twice for the very same order: when McDonald's charges the consumer twice, McDonald's finances reflect two charges at the same time for the same order. McDonald's has known of this issue for years and has failed to rectify it.

***McDonald's is on Notice of the Glitch and Has Not Remedied It***

52. McDonald's is on notice of the Glitch. There have been numerous reviews addressing this issue left in both the Google and Apple app stores, the two largest app stores for mobile phones and McDonald's has been contacted directly about the Glitch.

53. The negative reviews state that McDonald's routinely double charge its customers, once at the physical store and once on the App. The reviews also state that McDonald's never allows for a refund from the App.

54. Indeed, one of the reviews is four years old. Thus, McDonald's has been on notice of the Glitch for at least four years.

55. The negative reviews are from all around the country, with an overarching theme being that the App has no integration with Defendant's physical stores.

56. According to the negative reviews, the App users are sometimes double charged before they receive their food.

57. Oftentimes when these reviewers have confronted McDonald's management about their double charges, the management of McDonald's blames the reviewer, not the App.

58. McDonald's is in sole control of the design and payment methods for the App. Users of the App have no control over the design of the App.

59. McDonald's improperly collects dollars and cents off of its customers and ignores the reviews knowing that users are powerless to do anything to stop this predatory behavior.

60. Defendant's conduct can only be seen as wantonly malicious against the rights of its customers. McDonald's has enough resources to implement a refund option and the reviewers put McDonald's on notice of the Glitch at least four years ago.

***Harm to Plaintiff and Class Members***

61. Plaintiff and Class Members were harmed in two ways: (1) Plaintiff and Class Members were charged twice for the same order, which caused financial loss for the Plaintiff and Class Members (and which unjustly enriched Defendant) and (2) Plaintiff and Class Members lost time and effort attempting to get refunds for having been charged twice.

62. Plaintiff and Class Members did not get the benefit of their bargain, having paid consideration for the same item or items twice and receiving nothing for being charged twice.

**V. CLASS ALLEGATIONS**

63. This action is brought by the named Plaintiff on his own behalf and on behalf of a proposed Class of all other persons similarly situated, pursuant to 735 ILCS 5/2-801, *et seq.*, defined as follows:

**Nationwide Class.** All persons in the United States who, as a result of the Glitch, were improperly charged twice by Defendant, received erroneous auto-ordering

confirmations without having initiated orders in the App, or did not receive the discount promised by the “Deal” feature in the App during the applicable statutory period.

**Florida Subclass.** All persons in the state of Florida who, as a result of the Glitch, were improperly charged twice by Defendant, received erroneous auto-ordering confirmations without having initiated orders in the App, or did not receive the discount promised by the “Deal” feature in the App during the applicable statutory period.

64. Excluded from the Nationwide Class and Subclass are Defendant, any entity which Defendant has a controlling interest, and Defendant’s officers, directors, legal representatives, successors, and assigns. Also excluded from the Class is any judge, justice, or judicial officer presiding over this matter and members of their immediate families and judicial staff.

65. The Nationwide Class and Florida Subclass are collectively referred to as the “Class” unless otherwise specified.

**Class Certification is Appropriate**

66. Plaintiff meets the standard for certifying a class pursuant to 735 ILCS 5/2-801, *et seq.*

67. **Numerosity:** The proposed Class is believed to be so numerous that joinder of all members is impracticable. The purposed subclass is believed to be so numerous that joinder of all members is impracticable.

68. **Typicality:** Plaintiff’s claims are typical of the claims of the Class. Plaintiff and all members of the Class and proposed Subclass were injured through Defendant’s uniform misconduct. The same event and conduct that gave rise to Plaintiff’s claims are identical to those that give rise to the claims of every other Class member because Plaintiff and each member of the class was harmed by the conduct of Defendant.

69. **Adequacy:** Plaintiff is an adequate representative of the Class because his interests do not conflict with the interests of the Class that he seeks to represent; Plaintiff has retained counsel competent and highly experienced in class action litigation; and Plaintiff and Plaintiff's counsel intend to prosecute this action vigorously. The interests of the Class will be fairly and adequately protected by Plaintiff and his counsel.

70. **Superiority:** A class action is superior to other available means of fair and efficient adjudication of the claims of Plaintiff and the Class. The injury suffered by each individual class member is relatively small in comparison to the burden and expense of individual prosecution of complex and expensive litigation. It would be very difficult if not impossible for members of the Class individually to effectively redress Defendant's wrongdoing. Even if Class members could afford such individual litigation, the court system could not. Individualized litigation presents a potential for inconsistent or contradictory judgments. Individualized litigation increases the delay and expense to all parties, and to the court system, presented by the complex legal and factual issues of the case. By contrast, the class action device presents far fewer management difficulties and provides benefits of single adjudication, economy of scale, and comprehensive supervision by a single court.

71. **Commonality and Predominance:** There are many questions of law and fact common to the claims of Plaintiff and the other members of the Class, and those questions predominate over any questions that may affect individual members of the Class. Common questions for the Class include:

- a. Whether the App was properly designed to prevent customers from being charged twice as discussed herein;
- b. Whether McDonald's had a duty to properly maintain its App;

- c. Whether Defendant unlawfully retained money that belonged to McDonald's customers as a result of the Glitch discussed herein;
- d. Whether Defendant converted and/or interfered with money that belonged to McDonald's customers as a result of the Glitch discussed herein;
- e. Whether, as a result of the Glitch discussed herein, Defendant violated state consumer protection laws as result of the money that Defendant kept that belonged to McDonald's customers; and,
- f. Whether Defendant was unjustly enriched as a result of the Glitch discussed herein.

**VI. CAUSES OF ACTION**

**COUNT I**  
**CONVERSION**  
**(On behalf of Plaintiff and the Class)**

72. The foregoing allegations are hereby incorporated by reference as if fully restated herein.

73. Defendant converted the personal property of Plaintiff and the Class by initiating unauthorized debits from Plaintiff's and the Class Members' credit or debit cards after having already charged Plaintiff and the Class Members for the good(s) Plaintiff had purchased from Defendant.

74. Defendant engaged in an unauthorized assumption and exercise of the right of dominion over funds in the possession of Plaintiff and each member of the Class to the exclusion of the respective possessor's rights.

75. Defendant's unauthorized conduct was a wrongful act(s) that deprive the respective possessor of their rightful property.

76. Thus, Plaintiff and the Class were denied access to the funds on their credit card or debit card and their right to dominion over their personal property was wrongfully violated by the Defendant (or its agent).

77. Defendant's conversion of personal property from Plaintiff and each member of the Class was accompanied by outrageous and aggravated conduct (i.e. Defendant's conduct was done despite Defendant being aware of the Glitch, Defendant's conduct affected financially vulnerable persons, and Defendant financially benefitted from it).

78. Plaintiff and others similarly situated are entitled to recover damages as a result of Defendant's conversion.

**COUNT II**  
**TRESPASS TO CHATTELS**  
**(On behalf of Plaintiff and the Class)**

79. The foregoing allegations are hereby incorporated by reference as if fully restated herein.

80. Defendant interfered with the personal property of Plaintiff and the Class by initiating unauthorized debits from Plaintiff's and the Class Members' credit or debit cards after having already charged Plaintiff and the Class Members for the good(s) they had ordered from the Defendant.

81. Defendant engaged in an unauthorized assumption and exercise of the right of dominion over funds in the possession of Plaintiff and each member of the Class to the exclusion of the respective possessor's rights.

82. Defendant's unauthorized conduct was a wrongful act(s) that interfered with the respective possessor of their rightful property.

83. Thus, Plaintiff and the Class were denied access to the funds on their credit card or debit card and their right to dominion over their personal property was wrongfully violated by the Defendant (or its agent).

84. Defendant's interference with personal property from Plaintiff and each member of the Class was accompanied by outrageous and aggravated conduct (i.e. Defendant's conduct was done despite Defendant being aware of the Glitch, Defendant's conduct affected financially vulnerable persons, and Defendant financially benefitted from it).

85. Plaintiff and others similarly situated are entitled to recover damages as a result of Defendant's trespass to chattels.

**COUNT III**  
**BREACH OF CONTRACT**  
**(On behalf of Plaintiff and the Class)**

86. The foregoing allegations are hereby incorporated by reference as if fully restated herein.

87. Upon information and belief, Plaintiff and Class Members entered into agreements with the Defendant in exchange for the food and drinks. The agreement between Plaintiff and Class Members and the Defendant constitutes a valid and enforceable contract.

88. The contract specifically mentions the amount that consumers, Plaintiff and the Class Members, will pay in exchange for the food and drinks that they order from Defendant.

89. Defendant designed and currently maintains the App, which regulated the transaction between McDonald's and Plaintiff and Class Members.

90. Plaintiff and the Class fulfilled all obligations stipulated under the agreed contract.

91. Defendant charged Plaintiff and Class Members twice without Plaintiff's and Class Members' approval.



92. The App also caused Plaintiff and Class Members to receive erroneous text messages confirming orders they had never placed.

93. The App also did not apply discounts as promised by its “Deal” feature.

94. Defendant’s improper conduct, outlined above, constitutes a breach of contract.

95. Plaintiff and the Class would not have agreed to the contract if they knew that Defendant would place an unauthorized charge on their credit card which would double the amount that was stipulated to in the contract.

96. Plaintiff and the Class would not have agreed to the contract if they knew that Defendant would cause erroneous confirmation text messages to be sent regarding orders never placed by Plaintiff and Class Members.

97. Plaintiff and the Class would not have agreed to the contract if they knew that Defendant would not honor the “Deals” advertised in the App.

98. McDonald’s knew or should have known that this conduct would constitute a breach of its duties under the contract.

99. As a direct and proximate result of Defendant’s material breach, Plaintiff and the Class Members have suffered monetary damages in an amount to be determined at trial.

**COUNT IV**  
**VIOLATIONS OF THE FLORIDA DECEPTIVE AND UNFAIR TRADE PRACTICES**  
**ACT**

**Florida Statutes 501.201 – 501.213**  
**(On behalf of Plaintiff and the Florida Subclass)**

100. The foregoing allegations are hereby incorporated by reference as if fully restated herein.

101. Defendant is engaged in commerce in the State of Florida, as defined by § 501.203(8), Florida Statutes, and is therefore subject to the provisions contained in § 501.201 *et seq.*, Florida Statutes, the Florida Deceptive and Unfair Trade Practices Act (“FDUTPA”).

102. The FDUPTA was passed “to protect the consuming public and legitimate business enterprises from those who engage in unfair methods of competition, or unconscionable, deceptive, or unfair acts or practices in the conduct of any trade or commerce” and “to make state consumer protection enforcement consistent with established policies of federal law relating to consumer protection.” Fla. Stat. 501.202.

103. FDUPTA broadly defines “consumers” to include individuals who suffer injuries while participating in either trade or commerce. Fla. Stat. 501.203(7).

104. Plaintiff and Florida Subclass Members are consumers under FDUPTA who were harmed while participating in either trade or commerce.

105. Plaintiff and Class Members were subjected to an unfair practice when Defendant charged its consumers twice for the same good(s), caused erroneous text messages to be sent regarding orders never placed by Plaintiff and the Class, and did not honor the “Deals” advertised within its App. This conduct is directly and proximately caused by Defendant, who either knowingly or recklessly charged its consumers twice for the same good(s) and failed to properly remedy said charge. Thus, the consumers were harmed when they were charged twice for the same good(s) in the form of financial damages as well as lost time.

106. As such, Plaintiff and Florida Subclass Members seek all allowable damages under FDUPTA, reasonable attorneys’ fees, and injunctive relief ordering Defendant to cease participating in the conduct complained of herein.

**COUNT V**  
**UNJUST ENRICHMENT**  
**(On Behalf of Plaintiff and the Class)**

107. The foregoing allegations are hereby incorporated by reference as if fully restated herein.

108. Plaintiff and the Class bring this count as an alternative to all claims and remedies at law.

109. Plaintiff and the Class conferred a benefit on Defendant through Defendant's unauthorized withdrawals of monies from the debit and credit cards of Plaintiff and the Class in excess of the amounts that should have been withdrawn at the time they were withdrawn.

110. Defendant failed to have a proper method of retrieving the money received from unauthorized charges.

111. Defendant had knowledge of this benefit and had voluntarily accepted and retained the benefit conferred on it.

112. Defendant also voluntarily accepted and retained the benefit incurred from the App's failure to honor discounts advertised on the App.

113. It would be inequitable to allow Defendant to retain such funds, and Plaintiff and Class Members are entitled to an amount equal to the amount for which Defendant has been unjustly enriched.

114. Plaintiff and the Class seek the return of these funds and for a disgorgement of profit.

**COUNT VI**  
**VIOLATIONS OF THE ILLINOIS CONSUMER FRAUD AND DECEPTIVE**  
**BUSINESS PRACTICES ACT**  
**810 ILCS 505/1 *et seq.***  
**(On behalf of Plaintiff and the Class)**

115. The foregoing allegations are hereby incorporated by reference as if fully restated herein.

116. McDonald's violated the Illinois Consumer Fraud and Deceptive Business Practices Act, 810 ILCS 505/1 *et seq.* (the "ICFA").

117. Pursuant to ICFA, violations consist of: (1) a deceptive act or practice by the defendant; (2) defendant's intent that the plaintiff rely on the deception; (3) that the deception occur in a course of conduct involving trade and commerce; and (4) damages.

118. ICFA is a remedy intended to protect consumers against fraud, unfair methods of competition and deceptive practices.

119. Plaintiff meets the ICFA definition of "consumer" because the purchase was for household use. *See* 810 ILCS 505/1.

120. McDonald's made material misrepresentations of fact regarding the status of the App's operation, McDonald's charging practices, and McDonald's refund policy that affected Plaintiff to his detriment.

121. McDonald's is the sole entity in control of the operation, maintenance, and marketing of the App.

122. McDonald's knew or should have known that the App was charging consumers twice and that it was failing to honor the "Deals" it advertised through McDonald's finances or customer feedback.

123. McDonald's made material misrepresentations of fact regarding the amount Plaintiff would be charged for his purchase, on which Plaintiff relied to his detriment.

124. McDonald's committed a deceptive act or practice by charging customers twice or failing to honor the discounted "Deals" advertised by the App.

125. McDonald's failed to provide clear and accurate disclosures regarding that customers would be charged twice for their purchases, or that the discounts would not be applied.

126. McDonald's failed to properly resolve all unauthorized charges.

127. At all times relevant herein, McDonald's misrepresented and misstated the quality of its financial transactions and the availability of refunds due to the Glitch.

128. The misrepresentations, deception, and unfair practices complained of herein occurred in the course of conduct involving trade or commerce.

129. Defendant knew or should have known its practices violated the Illinois Fraud and Deceptive Trade Practices Act.

130. An award of punitive damages is appropriate because McDonald's above-described conduct was outrageous, willful, and wanton, and shows a reckless disregard for the rights of Plaintiff.

131. Plaintiff seeks to recover actual and punitive damages, injunctive relief, and reasonable attorneys' fees and costs pursuant to 815 ILCS 505/10a(c).

**COUNT VII**  
**VIOLATIONS OF THE ILLINOIS UNIFORM DECEPTIVE TRADE PRACTICES ACT**  
**(the "Illinois DTPA")**  
**815 ILL. Comp. Stat. §§ 510/1, et seq.**  
**(On behalf of Plaintiff and the Class)**

132. The foregoing allegations are hereby incorporated by reference as if fully restated herein.

133. Plaintiff and the Class are “persons” as defined in 815 Ill. Comp. Stat. § 510/1(5).

134. The Illinois DTPA broadly prohibits deceptive trade practices. As set forth herein, McDonald’s failed to properly charge Plaintiff and Class Members for their purchases. Accordingly, McDonald’s has engaged in deceptive trade practices as defined in 815 Ill. Comp. Stat. § 510/2.

135. Defendant’s actions occurred in the conduct of trade or commerce.

136. McDonald’s knew or should have known that its conduct violated the Illinois DTPA.

137. Defendant’s conduct was material to Plaintiff and the Class.

138. As set forth herein, Plaintiff and the Class suffered ascertainable loss caused by Defendant’s violations of the Illinois DTPA, which proximately caused injuries to Plaintiff and Class Members.

139. Pursuant to 815 Ill. Comp. Stat. § 510/3, Plaintiff and the Class are entitled to an award of injunctive relief to prevent Defendant’s deceptive trade practices and, because Defendant’s conduct was willful, an award of reasonable attorneys’ fees.

**COUNT VIII**  
**NEGLIGENCE**

**(On behalf of Plaintiff and the Class)**

140. The foregoing allegations are hereby incorporated by reference as if fully restated herein.

141. Defendant charges Plaintiff and Class Members for service within the operation of its business.

142. Upon accepting the transaction, McDonald’s had a duty to not overcharge the Plaintiff and Class Members for their orders.

143. Defendant had full knowledge of the harm suffered if its systems charged Plaintiff and Class Members twice for a single purchase, or if the discounts advertised by the “Deals” portion of the App were not applied.

144. Plaintiff and Class Members were the foreseeable victims of any improper App-based financial transaction. Plaintiff and Class Members had no ability to protect their payment card information stored in the App that allowed Defendant to make a double charge or not honor the discount advertised. As such, a special relationship existed between Defendant and Plaintiff and the Class.

145. Defendant knew or should have known of the fact that mobile applications can have technical issues that could result in a glitch that could charge customers twice, or fail to honor discounts, and failed to properly employ a simple remedy for McDonald’s grossly negligent conduct.

146. Defendant owed Plaintiff and Class Members a common law duty to use reasonable care to avoid causing foreseeable risk of harm to Plaintiff and the Class when handling their financial transactions.

147. Defendant’s willful failure to abide by these duties was wrongful, reckless, and grossly negligent as a business practice.

148. Defendant breached the duties owed to Plaintiff and the Class.

149. As a proximate and foreseeable result of Defendant’s grossly negligent conduct, Plaintiff and the Class have suffered damages.

150. Through Defendant’s acts and omissions described herein, including but not limited Defendant’s charging customers twice and Defendant’s failure to employ a system to properly

reimburse Plaintiff and the Class after the unauthorized charge, Plaintiff and the Class have suffered damages.

151. Defendant's wrongful actions, inaction, and omissions constituted (and continue to constitute) common law negligence.

152. The damages Plaintiff and the Class have suffered (as alleged above) and will suffer were and are the direct and proximate result of Defendant's grossly negligent conduct.

153. Plaintiff and the Class have suffered injury and are entitled to actual and punitive damages in amounts to be proven at trial.

**COUNT IX**  
**BREACH OF COVENANT OF GOOD FAITH AND FAIR DEALING**  
**(On behalf of Plaintiff and the Class)**

154. The foregoing allegations are hereby incorporated by reference as if fully restated herein.

155. As described above, Defendant made promises and representations to Plaintiff and the Class that Defendant would comply with their contract and other applicable laws and industry best practices.

156. These promises and representations became a part of the contract between Defendant and Plaintiff and the Class.

157. While Defendant had discretion in the specifics of how Defendant met the applicable laws and industry standards, this discretion was governed by an implied covenant of good faith and fair dealing.

158. Defendant breached this implied covenant when Defendant engaged in acts and/or omissions that are declared unfair trade practices by state statutes and regulations. These acts and omissions include but are not limited to charging customers twice in a transaction and failing to



properly remedy customers for this double charge, as well as failing to apply the discounts as advertised.

159. Plaintiff and Class Members did all or substantially all of the things that the contract required them to do.

160. Likewise, all conditions required for Defendant's performance were met.

161. Defendant's acts and omissions unfairly interfered with Plaintiff's and Class Members' rights to receive the full benefit of their contracts.

162. Plaintiff and Class Members have been harmed by Defendant's breach of this implied covenant in the many ways described above, including overpayment for services, and the time used to attempt to be reimbursed for the unauthorized charge.

163. Defendant is liable for this breach of these implied covenants, whether or not Defendant is found to have breached any specific express contractual term.

164. Plaintiff and Class Members are entitled to damages, including compensatory damages and restitution, declaratory and injunctive relief, and attorneys' fees, costs, and expenses.

## **VII. PRAYER FOR RELIEF**

165. WHEREFORE, Plaintiff and all others similarly situated pray to the Court for the following judgment as set forth below:

- a. Certifying this action as a class action, appointing Plaintiff as the Class Representative, and the undersigned as Class Counsel;
- b. Adjudging that Defendant is liable under the causes of action alleged herein;
- c. Awarding Plaintiff and the Class Members all forms of allowable damages under the causes of action alleged herein;

- d. Awarding Plaintiff and the Class Members their reasonable attorneys' fees and costs;
- e. That the costs of this action be taxed to Defendant;
- f. Awarding pre- and post- judgment interest to Plaintiff and the Class Members for the damages that they have suffered;
- g. For a trial by jury on all issues so triable; and,
- h. For such other and further relief as this Court deems just and proper.

**VIII. JURY TRIAL DEMAND**

166. Plaintiff and the Class hereby demand a trial by jury on all issues so triable.

DATED: June 24, 2022

Respectfully submitted,

/s/ Gary M. Klinger

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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: [McDonald's App Charges Some Customers Twice for Mobile Orders, Class Action Claims](#)

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