

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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ARTEM SHALOMAYEV, as owner and operator of 3715
BARBER SHOP, INC., Individually and on Behalf of All
Others Similarly Situated,

Plaintiffs,

-against-

ALTICE USA, INC.,

Defendant.
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Docket No.: 21 Civ. 5540

**PROPOSED CLASS
ACTION COMPLAINT**

**JURY TRIAL
DEMANDED**

ECF CASE

Plaintiff ARTEM SHALOMAYEV, as owner and operator of 3715 BARBER SHOP, INC., individually and on behalf of all others similarly situated in, by and through his counsel, Jon L. Norinsberg, Esq., PLLC, files this Class Action Complaint against Altice USA, Inc. (“Altice” or “Defendant”), and allege the following based on personal knowledge, the investigation of counsel, and information and belief.

NATURE OF THE ACTION

1. This case arises from a shocking betrayal of trust of the American public by Defendant Altice, who exploited the COVID-19 pandemic for profits, causing severe and lasting damages to non-essential small businesses in New York and throughout the United States.

2. While ostensibly joining the FCC’s “Pledge to Keep America Connected” – in which Altice, and many other similar communication providers, promised not to terminate internet and phone services to small businesses until at least June 15, 2020 -- Altice violated this pledge by terminating the services for Plaintiff’s business, and thousands of other similarly situated small businesses in throughout the country, over alleged “non-payment” of monthly service fees from March 15, 2020 to June 2020, during the height of the Covid pandemic.

3. Altice not only sought to recoup payments for the charges which it had pledged not to collect, but worse still, Altice coerced small businesses into entering new service agreements – imposing an exorbitant one-time “start-up” fee -- in order to restart their telephone and internet services for their businesses.

4. In engaging in this conduct, Altice left small business owners in New York and throughout the United States only one “choice”: either enter into a new contract with Altice to restore their phone and internet services, or lose their phone number, which many businesses had used for *decades*, to another business or other third party.

5. Faced with this Hobson’s choice, Plaintiff and other similarly situated business owners, fearful of losing their long-time phone numbers – which would have had a devastating impact on their business operations – felt compelled to accede to Altice’s extortionate demands, and paid the \$180.00 one-time charge for creating a new service account with Altice.

6. In addition to paying this one-time “start-up” fee, Altice forced small business owners such as Plaintiff to pay back the “outstanding balances” that they owed for the three months of when their businesses had been shut down.

7. As Altice well knew, Plaintiff’s business, as well as other similarly situated business, were *barred as a matter of law* from conducting business operation. Thus, they could not open their business for *any* reason, much less use their phone or internet services during this time period.

8. Notwithstanding this fact, Altice unethically, and in flagrant violation of its Pledge to Keep America Connected, terminated services for thousands of small non-essential businesses, such as Plaintiffs, and refused to turn services back on unless, and until, Plaintiffs agreed to enter into a new service agreement and pay the one-time set up fee for this new contract.

9. As set forth in detail below, Altice not only engaged in egregious and unethical conduct in coercing small businesses, such as Plaintiff's business, to pay this illegal "ransom" fee in order to restart their phone and internet services, but also, Altice violated state consumer protection laws that guard against the very predatory and exploitive business practices that Altice engaged in and that form the basis of this action.

NATURE OF THE CASE

10. In response to the global COVID-19 pandemic, civil authorities in New York and throughout the United States issued orders requiring residents to stay at home, shutting down restaurants, hair salons and other businesses deemed "non-essential," and prohibiting gatherings of large groups.

11. While such drastic measures were necessary to slow the spread of the novel coronavirus, these orders had a devastating effect on businesses, such as Plaintiff's barbershop, which was forced to completely shut-down business operations for a period of (4) months, from March 15, 2020 to July 13, 2020.

12. Altice is one of the largest cable TV and communications providers in the United States. It is publicly traded on the New York Stock Exchange under the ticker symbol "ATUS." Altice's broadband, pay television, mobile, internet, proprietary content and advertising services are used by nearly 5 million subscribers across 21 states through its Altice, Optimum, Suddenlink, and other brands.¹

13. Between 2015 and 2017, Altice acquired numerous existing businesses in the cable and telecommunications industry, including Suddenlink Communications ("Suddenlink") and

¹ "Investor Relations," ALTICEUSA.COM, <https://investors.alticeusa.com/investors/overview/default.aspx>, last viewed on September 27, 2021.

Cablevision Systems Corporation (“Cablevision”). As part of the acquisitions, Altice acquired the companies’ contracts and obligations, existing employees, and records for the companies’ former employees.

14. Plaintiffs and the Class Members (as further defined below) are current and former non-essential small business owners and subscribers of Altice, in New York and 20 other states in the south and central regions of the United States.

15. This class action seeks to redress Altice’s unlawful, willful and wanton in violation of common law and statutory obligations.

THE PARTIES

Plaintiffs

16. Plaintiff ARTEM SHALOMAYEV is domiciled in New York, and is a resident of Nassau County, in the State of New York.

17. Plaintiff, owns, operates, maintains and controls 3715 Barbershop Inc., known as the “Continental Barbershop” (“Continental”), located at 3715 Riverdale Avenue, in the County of the Bronx, and the City and State of New York.

Defendant Altice USA, Inc.

18. Defendant Altice USA, Inc. is incorporated in the State of Delaware and has its principal place of business in Long Island City, New York.

19. Altice, with its subsidiaries, provides broadband communications and video services in the United States. It is the fourth largest cable provider in the U.S., operating under, among other brands, Altice, Optimum, Lightpath, and Suddenlink. It provides cable services to approximately 4.9 million residential and business customers in 21 states, including those in the Tri-State area and many south-central regions of the U.S., providing broadband, pay television,

telephone services, proprietary content and advertising services. It was formed as the result of acquisitions by Altice N.V., a multinational telecommunications company centered in Europe, including of Suddenlink Communications, Cablevision, Newsday, and various other companies. Altice employees approximately 16,000 employees and has an annual revenue of 9.2 billion dollars.

JURISDICTION AND VENUE

20. This Court has diversity jurisdiction over this action under the Class Action Fairness Act (CAFA), 28 U.S.C. § 1332(d), because this is a class action involving more than 100 class members, the amount in controversy exceeds \$5,000,000.00, exclusive of interest and costs, and many members of the class are citizens of states different from Defendant.

21. This Court has personal jurisdiction over Defendant because its principal place of business is in this State, it regularly transacts business in this District, and Plaintiff and many Class Members reside in this District. Venue is likewise proper as to Defendant in this District because “a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of the property that is the subject of the action is situated.” 28 U.S.C. § 1391(b)(2).

Factual Allegations

The COVID-19 Pandemic

22. In December 2019, a novel coronavirus known as “SARS-CoV-2” was first detected in Wuhan, Hubei Province, China, and which caused an outbreak of a disease now known as “COVID-19.”

23. The coronavirus spread globally, and on January 30, 2020, the World Health Organization designated the COVID-19 outbreak as a Public Health Emergency of International Concern.

24. On January 31, 2020, United States Health and Human Services Secretary Alex M. Azar II declared a public health emergency for the entire United States to aid the nation's healthcare community in responding to COVID-19.

25. On March 13, 2020, the President of the United States issued a proclamation that the COVID-19 outbreak in the United States constitutes a national emergency.

Closure Orders Issued by Civil Authorities in Response to the COVID-19 Pandemic

26. In response to this public health crisis, every state made an emergency declaration by March 16, 2020. Moreover, civil authorities in nearly every state also ordered some form of social distancing measures, including stay-at-home orders (ordered by all but six states), restrictions on large gatherings (ordered by all but three states), and orders closing or restricting service at restaurants and bars except for takeout and delivery (ordered by all but one state).²

27. In New York, on March 7, 2020, Governor Andrew Cuomo declared a state disaster emergency for the entire state in effect until September 7, 2020.

28. On March 12, 2020, Governor Cuomo signed Executive Order 202.1, which, among other things, ordered that any large gathering or event for which attendance is anticipated to be in excess of five hundred people be cancelled or postponed for a minimum of thirty days. Executive Order 202.1 also required that any place of business or public accommodation, and any gathering or event for which attendance is anticipated to be fewer than five hundred people, operate at no greater than 50% occupancy, and no greater than 50% of seating capacity, for thirty days effective on Friday, March 13, 2020.

² Kaiser Family Foundation, *State Data and Policy Actions to Address Coronavirus*, available at <https://www.kff.org/health-costs/issue-brief/state-data-and-policy-actions-to-address-coronavirus/> (last viewed on September 27, 2021).

29. On March 16, 2020, Governor Cuomo signed Executive Order 202.3, which amended Executive Order 202.1 to require that, until further notice, any large gathering or event at any location in New York State be cancelled or postponed if more than fifty persons are expected in attendance. Executive Order 202.3 also ordered that any restaurant or bar in the state of New York cease serving patrons food or beverage on-premises effective at 8:00 p.m. on March 16, 2020 until further notice.

30. On March 18, 2020, Governor Cuomo signed Executive Order 202.6, which required, among other things, that any non-essential business reduce its in-person workforce at any work locations by 50% no later than March 20, 2020 at 8:00 p.m.

31. On March 19, 2020, Governor Cuomo signed Executive Order 202.7, which, among other things, amended Executive Order 202.6 to require that any non-essential business reduce its in-person workforce at any work locations by 75% no later than March 21, 2020 at 8:00 p.m.

32. On March 20, 2020, Governor Cuomo signed Executive Order No. 202.8, which ordered, among other things, that effective at 8:00 p.m. on Sunday, March 22, 2020, *all non-essential businesses statewide would be closed.*

33. As a barbershop and hair salon, Plaintiff's business did not qualify as an "essential business" under any of the categories enumerated by New York State."³ Therefore, as a matter of law, Plaintiff was forced to shut down his business operations on March 20, 2020.

³ See Empire State Development, Guidance for Whether a Business Enterprise Is Subject to a Workforce Reduction Under Recent Executive Orders (last updated April 24, 2020), available at <https://esd.ny.gov/guidance-executive-order-2026>.

As the Covid Pandemic Emerges, the FCC Announces the “Keep America Connected Pledge,” and Encourages Communications Carriers to Commit to the Pledge.

34. In response to the COVID-19 pandemic, and the challenges that many Americans were facing as a result, FCC Chairman Ajit Pai (“Mr. Pai” or “the Chairman”) announced the “Keep Americans Connected Initiative,” on March 13, 2020, and promised that it would extend until June 30, 2020.

35. In order to ensure that American individuals and small businesses did not lose their broadband and telephone service providers, Mr. Pai specifically asked broadband and telephone service providers, and trade associations, to join the Keep Americans Connected Pledge (the “Pledge”). More than 800 companies and associations signed the Chairman’s Pledge, which read as follows:

Given the coronavirus pandemic and its impact on American society,

[Company Name] pledges to:

1. *Not terminate service to any residential or small business customers* because of their inability to pay their bills due to the disruptions caused by the coronavirus pandemic;
2. *Waive any late fees residential or small business customers* incur because of their economic circumstances related to the coronavirus pandemic; and
3. Open its Wi-Fi hotspots to any American who needs them.

Altice Joins the FCC’s Pledge to Keep America Connected, and Promotes its Decision to Join the Pledge.

36. Seeking to keep up with its competitors, and capitalize on the substantial good will that would come with joining the Pledge, on or about March 15, 2020, Altice agreed to join the “Keep Americans Connected Pledge.”

37. Towards this end, Altice made the following announcement on its website and on

social media:

Altice USA is proud to have joined the Keep Americans Connected Pledge recently announced by Federal Communications Commission Chairman Ajit Pai. As part of the pledge, Altice USA has committed for the next 60 days to:

- Not terminate broadband and voice service to any residential or small business customers* because of their inability to pay their bills due to the disruptions caused by the coronavirus pandemic;

- Waive any late fees that any residential or small business customers* incur because of their economic circumstances related to the coronavirus pandemic.

(Ex. A, Altice Pledge).

38. Altice USA's CEO, Dexter Goei, further proclaimed, in the Altice section of a list of carriers who had joined the Pledge, as follows:

We know that our connectivity services, especially broadband and voice, are essential for fostering learning for students, powering our local businesses, and keeping our communities connected. Altice USA is proud to do its part in ensuring that customers and business in our service areas have reliable access to the connectivity services that are critically important during this rapidly evolving public health situation.

(Ex. B, Goei Statement on Altice's Policy).

Altice Flagrantly Violates its Public Pledges, Terminating Service to Smalls Businesses During the Covid Lockdown, and Imposing Substantial Late Fees Based on Non-Payment.

39. Altice's public statements were a far cry from its actual practices. While Altice was fostering the illusion that it genuinely cared about its customers and wanted to help them through the pandemic, in fact, the appearance of caring about its customers, in fact, Altice had no intention whatsoever of honoring its "Pledge" to Keep Americans Connected.

40. To the contrary, Altice treated its small business customers in exactly the same manner as they had prior to the pandemic, namely: if monthly bills were not paid, service would be terminated, and late fees would be imposed for payments that were not made in a timely manner.

41. Neither Plaintiff, nor similarly situated Class Members, had any idea that what Altice publicly proclaimed in its “Pledge” was, in fact, an outright fabrication. To the contrary, Altice’s small business customers, such as Plaintiff and other similarly situated Class Members, accepted Altice’s Pledge as true and relied on Altice’s false promises to their detriment, as set forth in detail below.

Plaintiff Learns of Altice’s Pledge and is Relieved to Learn that His Services Will Not Be Terminated during the Covid Lockdown.

42. On or about March 15, 2020, Plaintiff read about Altice’s Pledge to Keep Americans Connected on the internet.

43. Plaintiff was relieved to learn that Altice had joined Pledge to Keep Americans Connected.

44. Specifically, with his business completely shut down and having no source of income whatsoever, Plaintiff was relieved that he did not have to make payments to Altice while his business was mandatorily shut down by the Executive Orders of Governor Cuomo.

45. As a result of the government lockdown, Plaintiff’s business was physically shut down and he was barred from opening up his barbershop during this time period. As a result, Plaintiff was unable to retrieve any mail to his business, including bills from Altice, during this same time period.

46. In fact, during this time period, Plaintiff did not enter his barbershop even *once* -- fearing that merely opening his doors would violate the Governor’s decree and subject him to the imposition of penalties and fees. Therefore, he did not retrieve any mail that had been sent to his business address at 3715 Riverdale Avenue, Bronx, New York.

Altice Terminates Plaintiff's Service Without Any Warning, Violating its Pledge to Keep America Connected.

47. Unbeknownst to Plaintiff, while he was legally blocked from opening his barbershop, and still reeling from the mandatory closure of his business, Altice was back to operating "business as usual" as by April 2020.

48. Just weeks after committing to the Pledge, Altice send out a standard invoice to Plaintiff in April 2020 (Ex. C). On this invoice, Altice charged Plaintiff with fees for his alleged phone usage and internet usage for the period of March 16, 2020 to April 15, 2020, including a "Total Internet" charge of \$55.44 and a "Total Phone" charge of \$34.95, or **\$89.11** in total charges for Plaintiff's (non-existent) use of Altice's internet and phone services for this one-month period.

49. Altice sent out this invoice knowing full well that Plaintiff, as well as thousands of other similarly situated non-essential business owners, were legally barred from operating their companies during this time period, and could not possibly have used Altice's phone and internet services.

50. Since Plaintiff was legally barred from operating his hair salon during this same one-month period (March 16, 2020 to April 15, 2020), he did not enter his barbershop and did not see the bill that Altice had sent him, and did not make any payment towards this bill.

51. Thereafter, in May 2020, Altice sent to Plaintiff *another* monthly bill for his (non-existent) use of Altice's phone and internet services during that time period of April 16, 2020 to May 15, 2020. (Ex. D).

52. Among other things, in this bill, Altice charged Plaintiff a "Total Internet" fee of \$55.44 and a "Total Phone" charge of \$34.95, plus "Total Taxes & Fees" for an amount of \$7.50, or a total monthly bill of \$97.89 for the (non-existent) use of Altice's internet and phone services

for this month.

53. Worse still, in this May bill, Altice included the previous month's unpaid bill (\$89.11), and added this prior amount into the total amount that was allegedly now due to Altice. As a result, Plaintiff's bill essentially **doubled**, ballooning up to a total of **\$187.00** as the new "Total Amount Due" to Altice (Ex. D).

54. Once again, Plaintiff never saw this bill when it arrived at his business, since Plaintiff was still legally barred from operating his barbershop during this same time period. Thus, Plaintiff had no idea that he now owed Altice for two months of internet and phone services which he had never actually used.

55. For the next month, Altice sent yet *another* bill to Plaintiff for his alleged use of internet and phone service for the time period of May 16, 2020 to June 15, 2020, for a sum of \$91.90. This bill now charged Plaintiff for **3 months** of internet and phone usage, even though his business had been completely shut down during this time period and he had not actually used *any* of Altice's services during these 3 months.

56. According to Altice, Plaintiff now "owed" Defendant **\$284.89** for Altice's phone and internet services from March 2020 to June 2020, even though he had never set foot in his barber shop – much less used any of Altice's services – during this time period.

57. Worse still, however, was the fact that Altice had actually *terminated* Plaintiff's service based on his non-payment of the outstanding bills for April, May and June, as Plaintiff would soon discover when he re-entered his shop in late June 2020.

Altice Terminates Plaintiff's Services, as well as those of other Similarly Situated "Non-Essential" Small Businesses, in Violation of its Keep America Connected Pledge.

58. In anticipation of Governor Cuomo allowing certain non-essential businesses,

including barbershops and hair salons, to reopen in July, Plaintiff went back into his barbershop in mid-June 2020.

59. At that time, Plaintiff finally had a chance to open up several months of unopened mail that had accumulated since March 15, 2020. Upon doing so, Plaintiff learned, for the first time, regarding the outstanding payments that Altice claimed he owed to him.

60. At that time, Plaintiff learned that Altice had continued *fully charging* him for the entire 3 months during the Covid lockdown, even though he had been prohibited from operating his business during this time period.

61. Far more troubling, however, was the fact that Altice had terminated all of Plaintiff's services -- including his phone and internet services -- based on his alleged failure to pay Altice for 3 months of bills.

62. In summarily terminating Plaintiff's services in this manner, as well as the services of many other similarly situated small business who were shut down by Covid, Altice flagrantly violated its Pledge to "***not terminate broadband and voice service to any residential or small business customers*** because of their inability to pay their bills due to the disruptions caused by the coronavirus pandemic." (Ex. A) (emphasis supplied).

63. But this egregious conduct, as bad as it was, was only the tip of the iceberg. Altice was about to do something far worse to its small, "non-essential" business owner customers.

Altice Coerces its Terminated Customers to Enter into A New Contract -- with an Exorbitant One-Time "Installation" and "Equipment" Fee -- in Order to Restore Their Service and Retain their Phone Numbers.

64. Upon learning that his service had been terminated, Plaintiff was truly shocked by Altice's conduct. Altice had flagrantly violated its promise to not terminate service of small businesses, like his, had suffered "disruptions caused by the coronavirus pandemic." (Ex. A). But

Plaintiff presumed that this was somehow just a mistake, and that he would be able to set things straight once he spoke to someone at Altice. Plaintiff could not have been more wrong.

65. After realizing that his phone lines and internet were not working, on or about June 17, 2020, Plaintiff called Altice on their toll-free customer service. After being transferred to a number of different representatives, Plaintiff finally learned the truth about what had happened. Altice's termination was not simply a mistake, as he had presumed, but rather, was a deliberate and intentional policy decision by Altice.

66. Specifically, the Altice representative told Plaintiff that, regardless of what he may have read about Altice's promise to not terminate services during Covid, in fact, small business customers were, in fact, still obligated to fully pay their bills in a timely manner, and that their failure to do so would automatically result in a termination of services.

67. Further, the Altice customer service representative explained to Plaintiff that termination of service had always been Altice's policy regarding non-payment of bills, and that no exceptions would be made, *regardless* of any hardships or business disruptions caused by the Covid pandemic.

Altice Makes False and Misleading Statements About the “One Time Activity” Fee in Order to Induce Plaintiff to Enter into a New Service Agreement and Make a Payment of \$180.00.

68. Eager to restore his phone service and allow customers to call in for appointments, Plaintiff then asked the Altice representative whether or not, if he agreed to pay in full the “outstanding” bills that he allegedly “owed” Altice, would Altice agree to restore to his service.

69. The Altice representative summarily rejected this request. According to the Altice representative, once Altice had terminated the service of one of its customers, that service was permanently disconnected and could not simply be “restored.” Instead, the only way to activate

phone and internet service would be to set up a new service account – what Altice called a “One Time Activity” fee – to activate phone and internet service at Plaintiff’s place of business.

70. Plaintiff vehemently objected to paying an additional fee, in addition to his outstanding bill, merely to restore his service. However, the Altice representative insisted that this payment was necessary before service could be restored.

71. Specifically, the Altice representative told Plaintiff, falsely, that the reason why Altice was charging so much for the “One Time Activity” fee is that Altice would need to perform an “installation” of “new equipment” in order to restore Plaintiff’s phone and internet service.

72. The statement by the Altice representative was deliberately false, misleading and dishonest. Upon information and belief, this false statement was part of a uniform, mandatory script that Altice representatives were required to use when trying to convince recently terminated customers to pay the “One Time Activity” fee in order to reactivate their service.

73. The Altice representative made this false statement for the purpose of inducing Plaintiff, and did in fact induce him, as well as other similarly situated Class members, to pay the costly “One Time Activity Fee” to Altice.

74. This false statement was intended to deceive, and in fact, did deceive Plaintiff, as well as other similarly situated Class members, into believing that he was receiving “new equipment” and that this was the reason for the \$180.00 “One Time Activity Fee.”

75. In fact, as Altice well *knew*, there was no “new” equipment that Altice was providing to Plaintiff and other Class members. Rather, reconnecting the customer’s service was something that could be done fairly quickly and with no new equipment, contrary to what Altice had proclaimed.

76. Plaintiff had no idea that the Altice representative’s statements were false and

misleading. Rather, Plaintiff accepted these statements at face value and believed them to be true, and relied upon these false statements to his detriment.

77. Thereafter, Plaintiff explained to the Altice representative that since he had lost all of his customers as a result of being shut down by Covid, it was an extreme economic hardship for him to have to pay this new “Installation” and “Equipment Charge” fee, on top of the outstanding bills that had been charged by Altice during the past three months.

78. Plaintiff further explained that the phone number for the barber shop was critical to his business and that it had always been the same number for decades, long before Plaintiff had purchased the business back in 2011. Plaintiff simply couldn’t afford to lose that number. It was literally the lifeline for his business, and customers would have no other way of reaching him.

79. Plaintiff’s pleas, however, fell on deaf ears. Instead, the Altice representative kept repeating, over and over, that the only way for Plaintiff to get service at his business would be to enter into a new agreement on the phone and provide a credit card to pay for the new “Installation” and “Equipment Charge.”

80. Plaintiff was outraged over Altice’s egregious and unconscionable conduct, as Altice seemed to be exploiting the Covid pandemic for its own profits. It was bad enough that Altice had terminated his service for non-payment -- after they had publicly pledged not to do so, and promoted this fact on their website and on social media -- but it was even worse that they were now imposing mandatory “installation” and “equipment fee” charges, merely to restore service which should have never been cut off in the first place.

81. Moreover, Plaintiff had *already* paid Altice a “One Time Activity” fee in late February 2020, when he had upgraded his service plan and added internet services at that time. In connection with this upgrade, Altice had charged \$99.99 for the “installation” of the new service

plan. Plaintiff paid this \$99.99 “installation” fee just one month before the Covid lockdown.

82. To Plaintiff, it seemed grossly unfair -- if not completely unlawful -- for Altice to charge him yet again for *another* “installation” fee, when he had already paid Altice a similar “installation” fee just one month before his business had been forced to shut down by the government.

83. Yet, as angry as Plaintiff felt, he realized that if he didn’t accede to Altice’s extortionate demands, he would have no chance of getting his business -- which had already been decimated by the Covid lockdown -- running again.

84. In particular, Plaintiff was extremely fearful over losing the Continental phone number. The Altice representative had told Plaintiff that Altice would not be able to hold the same phone number open for Plaintiff, and that if he didn’t agree to enter into a new agreement with Altice -- and provide a credit card to pay Altice for the new “installation” and “equipment fees” -- then Plaintiff would very likely lose his longstanding number, as it would enter back into a pool of unused numbers and would promptly be reassigned to another business or residential customer.

85. The severe pressure and implied threats from the Altice representative worked. Plaintiff relented and agreed to enter into a new agreement with Altice. Simply put, Plaintiff felt that if he refused to make the payment, Altice would not restore his service, and he would permanently lose the number that his barbershop had used for over 50 years, since the early 1970’s, which would be catastrophic for his business.

86. With these fears in mind, Plaintiff reluctantly agreed to pay Altice the \$180.00 “One Time Activity” fee for the “installation” of the “new equipment” that Altice was allegedly providing. Plaintiff made this payment on or about June 17, 2020. (Ex. E).

87. The foregoing transaction took place by phone. Altice never presented Plaintiff

with a written agreement to sign. Nor, for that matter, did Altice ever disclose to Plaintiff any of the material terms and conditions of the new agreement that it had pressured Plaintiff to enter into for the restoration of his service.

88. Having never had a chance to review the new service agreement with Altice, Plaintiff was not aware of any terms, conditions or limitations in this agreement when he made the credit card payment on June 17, 2020. Without knowing what such terms were, Plaintiff could not, and did not, assent to any of the unknown conditions that Altice may have imposed as part of the new agreement.

Altice Fraudulently Conceals the Fact that After Inducing Plaintiff to Enter into a New Agreement, Plaintiff Would be Charged Double for His First Monthly Phone Bill.

89. Altice not only made affirmatively false statements to induce its small business customers, including Plaintiff, to pay the “One Time Activity Fee,” but also, it fraudulently concealed the drastic increase in its monthly phone service for the first month of the new service agreement with Altice.

90. Specifically, Altice deliberately concealed the fact that, after the Covid lockdown period had ended and small non-essential businesses such as Plaintiff’s barbershop could reopen, Altice intended to **double** the first monthly phone bill under the new service agreement -- from \$34.95 to \$69.90 for the “Total Phone” charge, in effect imposing a late fee penalty on top of the “One Time Activity” fee of \$180.00. These additional payments, taken together, imposed a substantial financial burden on Plaintiff and other similarly situated Class members, whose small businesses had already been decimated by the Covid lockdown.

91. In deliberately concealing this 100% price increase, Altice willfully engaged in the fraudulent concealment of material information. Simply put, Altice was under an *obligation* to

disclose this material price increase to Plaintiff, and other similarly situated small business owners, since Altice possessed superior knowledge about its plan to double the first “Total Phone” monthly service charge, and small business owners such as Plaintiff would have no way of knowing about Altice’s plan to impose such a drastic price increase.

92. Further, Altice knew that small business owners, in the absence of such material information, would be acting on the basis of mistaken and incomplete knowledge when deciding whether or not to pay the “One Time Activity” fee and renew their services with Altice.

93. Altice willfully and intentionally concealed this drastic price increase in order to induce Plaintiff and other Class members to pay the “One Time Activity” fee and enter into new service agreements with Altice.

94. Had Plaintiff known the truth about the Altice’s plan to **double** his “Total Phone” fee during the first month of service, he would not have agreed to pay the “One Time Activity” fee and renew their services with Altice. Rather, Plaintiff would have reached out to other telecommunication carriers to provide his business with internet and phone services, which is exactly what he did in September 2020, when he realized that he could no longer afford to pay Altice’s grossly inflated bills.

95. As a result of Altice’s fraudulent concealment, Plaintiff did not learn about the 100% increase in his first monthly “Total Phone” Altice bill until *after* he had already been induced to pay the “One Time Activity” fee of \$180.00 to Altice.

96. On July 5, 2020, Governor Cuomo formally announced that several categories of “non-essential” businesses – which had been completely shut down as a result of his Executive Order on March 15, 2020 – would be permitted to re-open in the New York City metropolitan region, including barbershops, hair salons, nail salons, spas and tanning salons, as part of the Phase

3 of reopening in New York.⁴

97. Shortly thereafter, Plaintiff reopened his Continental barbershop at 3715 Riverdale Avenue in the Bronx.

98. In August 2020, Plaintiff received his first monthly Altice bill after he had reopened his barbershop. It was only then that Plaintiff realized, for the first time, that Altice had markedly increased their monthly fees for internet and phone services. But by then, the damage was already done. Plaintiff had already been duped into paying the exorbitant “One Time Activity” fee to Altice in order to resume his business operations.

CLASS ACTION ALLEGATIONS

99. Plaintiffs bring this action as a Class Action pursuant to Rules 23(a)(b)(1), (b)(2), and (b)(3) of the Federal Rules of Civil Procedure on behalf of all similarly situated non-essential business owners in New York and throughout the United States of America.

100. Plaintiffs bring this class action pursuant to Federal Rules of Civil Procedure 23 (“Rule 23”) in their representative capacity on behalf of themselves and the Class of all persons similarly situated (“the Class”), defined as follows:

All current and former Altice (and related company) cable and internet subscribers who, as “non-essential” small businesses, were forced to shut down their business operations from March 15, 2020 to June 15, 2020 (the “Class Period”), and whose services were terminated by Altice based on non-payment of bills during the Class Period, and who paid Altice a “One Time Activity” fee in order to restore their Altice phone and internet service.

101. Plaintiffs incorporate by reference all preceding paragraphs as if fully restated here.

102. Plaintiffs reserve the right to amend the above definitions or to propose alternative

⁴<https://www.governor.ny.gov/news/governor-cuomo-announces-new-york-city-enters-phase-iii-reopening-without-indoor-dining> (last viewed on September 4, 2021).

or additional subclasses subsequent pleadings and motions for class certification.

103. The proposed Class and any additional subclasses meet the requirements of Fed. R. Civ. P. 23(a), (b)(1), (b)(2), (b)(3), and (c)(4).

104. **Numerosity:** The proposed Class is so numerous that joinder of all members is impracticable. Upon information and belief, there are thousands of small business owners who were subjected to Altice's unlawful policy of charging a "One Time Activity" fee to reactivate their phone and internet services, which Altice had improperly terminated during the mandatory government shutdown.

105. **Typicality:** Plaintiffs' claims are typical of the claims of the Class. Plaintiffs and all members of the Class were injured through Altice's uniform misconduct. The same event and conduct that gave rise to Plaintiffs' claims are identical to those that give rise to the claims of every other Class member because Plaintiffs and each member of the Class was forced to pay Altice the exorbitant "One Time Activity Fee" in order to reactivate their phone and internet service, which Altice improperly terminated in the first instance.

106. **Adequacy:** Plaintiffs are adequate representatives of the Class because Plaintiffs' interests do not conflict with the interests of the Class that they seek to represent; Plaintiffs have retained counsel competent and highly experienced in class action litigation.

107. Jon L. Norinsberg, Esq., is a Manhattan attorney who has over thirty (30) years of experience in civil litigation. Mr. Norinsberg has substantial experience in handling class action lawsuits and complex civil litigation cases, as recognized by several federal courts. See, e.g., Stinson v. City of New York, 282 F.R.D. 360 (S.D.N.Y. 2012) (noting that Jon L. Norinsberg is "competent and experienced in federal class action and federal civil rights litigation."); Marshall v. City of New York, et al., 10-Civ-2714 (JBW) (VVP) (E.D.N.Y. 2012) ("Mr. Norinsberg has

been practicing for over twenty years and has an extensive background in litigating complex civil rights and constitutional law cases.”).

108. **Superiority:** A class action is superior to other available means of fair and efficient adjudication of the claims of Plaintiffs 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 Altice’s wrongdoing.

109. 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.

110. **Commonality and Predominance:** There are many questions of law and fact common to the claims of Plaintiffs 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:

- i. Whether or not Altice engaged in deceptive business practices by charging its disconnected small business customers a “One Time Activity” fee of \$180.00, including an “Installation” fee and an “Equipment fee,” when in fact, Altice did not provide any new or installation services for such customers;
- ii. Whether or not Altice made knowingly false, uniform representations to its former small business customers, whom Altice had disconnected based on non-payment of their bills during the Covid lockdown, in order to induce them to pay the “One Time Activity” Fee to restore their phone and internet service;

- iii. Whether or not Altice knowingly and deliberately concealed the fact that it planned on imposing a 100% price increase on its first monthly “Total Phone” bill for small business customers who had re-activated their service after Altice had disconnected their phone and internet service during the Covid lockdown based on non-payment.

111. **Maintainability**. This action is properly maintainable as a class action for the prior independent reasons and under the following portions of Rule 23:

- (a) Individual actions would create a risk of inconsistent results and would be unnecessary and duplicative of this litigation;
- (b) Defendants have acted or refused to act on grounds generally applicable to the Class as a whole; and
- (c) Individual actions would unnecessarily burden the courts and waste judicial resources; and
- (d) The Class members are identifiable either from Defendants’ records or through self-identification in the claims process.

FIRST CLAIM FOR RELIEF
(Fraudulent Inducement)

112. Plaintiffs repeat and reallege each allegation of paragraphs “1” through “111” above as if fully set forth herein.

113. As alleged above, Altice knowingly made material misrepresentations to Plaintiff and Class members regarding the “One Time Activity fee” necessary to restore phone and internet services.

114. Specifically, Defendant told Plaintiff and Class members that a “One Time Activity fee” of \$180.00 was necessary because Altice needed to “install” some “new equipment” in order to restore Altice’s phone and internet services.

115. This statement was false and misleading in every respect. In fact, as Altice well knew, it was not necessary to “install” *any* “new equipment” in order to restore its phone and internet services. This was an outright fabrication.

116. Defendant made such material misrepresentations in order to induce Plaintiff and Class members to enter into a new service agreement with Altice after their service had been terminated by Altice for non-payment of bills during the Covid lockdown, from March 15, 2020 to June 15, 2020.

117. Upon information and belief, Defendant made such material misrepresentations in accordance with a uniform and mandatory script that Altice representatives were required to follow when speaking to customers whose services had been terminated from March 15, 2020 to June 15, 2020, based on non-payment of their bills during the Covid lockdown.

118. Plaintiff and Class members relied upon Defendants’ material misrepresentations to their detriment, and were induced to pay the “One Time Activity” fee and enter into new service agreements with Altice, merely to restore their phone and internet services.

119. As a result of Defendants’ fraudulent conduct, Plaintiffs and Class members suffered monetary damages and other losses.

SECOND CLAIM FOR RELIEF
(Fraudulent Concealment)

120. Plaintiffs repeat and reallege each allegation of paragraphs “1” through “119” above as if fully set forth herein.

121. Altice not only made affirmatively false statements to induce its small business customers, including Plaintiff, to pay the “One Time Activity Fee,” but also, it fraudulently concealed the drastic increase in its monthly service bills that would be charged to all such

customers in the first month of restored service, once they had entered into new service agreements with Altice.

122. Specifically, Altice knowingly and deliberately concealed the fact that, after the Covid lockdown period had ended and small non-essential businesses such as Plaintiff's barbershop could reopen, Altice intended to increase the "Total Phone" monthly service bill for its small business customers by 100%, from \$34.95 to \$69.90, for the first month after service had been restored.

123. In deliberately concealing this drastic price increase, Altice willfully engaged in the fraudulent concealment of material information.

124. Altice was under a duty to disclose this material price increase to Plaintiff and Class members, since Altice possessed superior knowledge about its plan to double its "Total Phone" service bill in the first month after service was restored, and its small business owner customers, such as Plaintiff and Class members, would have no way of knowing about Altice's plan to impose such a drastic price increase without full disclosure by Altice.

125. Further, Altice knew that, in the absence of such material information, Plaintiff and Class members would be acting on the basis of mistaken and incomplete knowledge when deciding whether or not to pay the "One Time Activity" fee and enter into a new service agreement with Altice.

126. Altice willfully and intentionally concealed this drastic price increase in order to induce Plaintiff and other Class members to pay the "One Time Activity" fee and enter into new service agreements with Altice.

127. Had Plaintiff and Class Members known the truth about the Altice's plan to double the "Total Phone" charge for the first month of service, they would not have agreed to pay the

“One Time Activity” fee, and would have entered into a new service agreement with Altice. Rather, they would have reached out to other telecommunication carriers to provide their businesses with internet and phone services.

128. As a result of Defendants’ fraudulent conduct, Plaintiffs and Class members suffered monetary damages and other losses.

THIRD CLAIM FOR RELIEF
(Deceptive Acts or Practices under N.Y. Gen. Bus. Law § 349)

129. Plaintiffs repeat and reallege each allegation of paragraphs “1” through “128” above as if fully set forth herein.

130. Altice knowingly made material misrepresentations in their conversations with Plaintiff and other Class members, regarding the “One Time Activity fee” necessary to restore phone and internet services.

131. Defendant’s material misrepresentations were intended to deceive, and did in fact deceive, Plaintiffs and Class members regarding the rights and protections available to consumers, as well as the services provided by Defendants.

132. Apart from its material misrepresentations, Altice also knowingly and deliberately concealed the fact that, after the Covid lockdown period had ended and small, “non-essential” businesses were allowed to reopen, Altice intended to double the “Total Phone” charge for the first month of service after customers had entered into a new service agreement to restore their phone and internet services.

133. Altice willfully and intentionally concealed this drastic price increase in order to induce Plaintiff and other Class members to pay the “One Time Activity” fee and enter into new service agreements with Altice.

134. Defendants' actions constituted a violation of N.Y. Gen. Bus. Law § 349.

135. Plaintiffs and Class members suffered monetary damages and other losses as a result of Defendants' violation of NY Gen. Bus. Law § 349.

FOURTH CLAIM FOR RELIEF
(Unjust Enrichment)

136. Plaintiffs repeat and reallege each allegation of paragraphs 1 through 135 above as if fully set forth herein.

137. Defendant, by way of its affirmative actions and omissions, knowingly and deliberately enriched itself by forcing Plaintiff and Class members to pay an exorbitant "One Time Activity" fee to restore their internet and phone services, when in fact, there was no justification for the imposition of this fee.

138. Based on Altice's unlawful and fraudulent conduct, it would be inequitable, unconscionable, and unlawful to permit Defendant to retain the benefits it derived as a consequence of its said conduct.

139. Accordingly, Plaintiff, on behalf of himself and the Class Members, is entitled to relief in the form of restitution and/or compensatory damages.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff demands judgment in his favor and in favor of the Class against Defendant as follows:

- a. Determining that this action may be maintained as a class action under Fed. R. Civ. P. 23(a) and (b)(3), that Plaintiff be designated as a Class representative, and that Plaintiffs' Counsel be appointed as Class counsel for the Class;

- b. An order certifying this action as a class action under Fed. R. Civ. P. 23, defining the Class as requested herein, appointing the undersigned as Class counsel, and finding that Plaintiff is a proper representative of the Class requested herein;
- c. A judgment in favor of Plaintiff and the Class, awarding them appropriate monetary relief, including actual and statutory damages in the amount of \$10,000,00, and punitive damages in the amount of \$10,000,000, plus attorney fees, expenses, costs, and such other and further relief as is just and proper;
- d. An order providing injunctive and other equitable relief as necessary to protect the interests of the Class as requested herein;
- e. An order requiring Defendant to pay the costs involved in notifying the Class Members about the judgment and administering the claims process;
- f. A judgment in favor of Plaintiff and the Class awarding them pre-judgment and post-judgment interest, reasonable attorneys' fees, costs and expenses as allowable by law; and
- g. An award of such other and further relief as this Court may deem just and proper.

DEMAND FOR A JURY TRIAL

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiff respectfully demands a trial by jury of all issues in this matter.

Dated: New York, New York
October 6, 2021

Yours, etc.,

JON L. NORINSBERG, PLLC

By:



Jon L. Norinsberg, Esq.

Attorneys for Plaintiff

110 E. 59th Street, Suite 3200

New York, New York 10022

Telephone No.: (212) 791-5396

Facsimile No.: (212) 406-6890

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Despite Promises Otherwise, Altice USA Cut Small Businesses' Phone, Internet Service Early in Pandemic, Class Action Alleges](#)
