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15
16 **UNITED STATES DISTRICT COURT**
NORTHERN DISTRICT OF CALIFORNIA

17
18 STEPHANIE WOOD, individually and on) Case No. 3:20-cv-04125
behalf of all others similarly situated,)
19)
Plaintiff,) **CLASS ACTION COMPLAINT**
20)
v.) **JURY TRIAL DEMANDED**
21)
22 STUBHUB, INC.; and JOHN DOES 1 to 10,)
23)
Defendants.)
24)
25)

1 **INTRODUCTION**

2 Plaintiff Stephanie Wood (“Plaintiff”), by and through her undersigned counsel, files this Class
3 Action Complaint against Defendant StubHub, Inc. and JOHN DOES 1 to 10 (collectively, “StubHub”
4 or “Defendants”), individually and on behalf of a class of similarly situated individuals, and alleges,
5 upon personal knowledge as to her own actions, and upon investigation of counsel as to all other matters,
6 as follows:

7 **OVERVIEW OF DEFENDANTS’ UNLAWFUL PRACTICES**

8 1. This Class Action Complaint comes during a time of hardship for so many Americans,
9 with each day bringing different news of the efforts to combat the novel coronavirus COVID-19.
10 Beginning in early March 2020, social distancing, shelter-in-place orders, and efforts to “flatten the
11 curve” prompted the nationwide cancelation of sporting events, concerts, and other large gatherings as
12 most of the country locked down. StubHub is the “world’s largest ticket marketplace” and *for years* prior
13 to COVID-19 had made a “FanProtect™ Guarantee” that ticket purchasers like Plaintiff would receive
14 full refunds for cancelled events. The COVID-19 cancelations and Defendants’ trademarked FanProtect
15 Guarantee should have meant that StubHub ticketholders like Plaintiff were promptly refunded their
16 hard-earned money—money consumers now need more than ever in a time when many of StubHub’s
17 customers have lost their jobs and are suffering financial hardship. Yet after the pandemic hit,
18 Defendants retroactively changed their cash refund policy and began refusing consumers the refunds
19 long-promised by the FanProtect Guarantee. Instead, Defendants began offering expiring coupons for
20 future purchases on StubHub’s website.

21 2. This is a bait and switch on a global scale. The FanProtect Guarantee is at the bedrock of
22 StubHub’s business model. For example, just weeks before the pandemic hit, at a hearing before the
23 House of Representatives Committee on Energy and Commerce, Stephanie Burns, StubHub’s Vice
24 President and General Counsel, testified on February 26, 2020 that “StubHub’s FanProtect Guarantee is
25 the hallmark of our business and it is why we have earned the trust of fans around the globe.”¹ Notably,
26

27 _____
28 ¹ Available at: <https://docs.house.gov/meetings/IF/IF02/20200226/110588/HHRG-116-IF02-Wstate-BurnsS-20200226.pdf>

1 when Plaintiff bought her tickets from StubHub in October 2019 Defendants’ website stated in multiple
2 places that “[y]ou’ll get a refund if your event is cancelled and not rescheduled.”²

3 3. The whole point of the FanProtect Guarantee is that it placed the risk of loss onto
4 StubHub. This assumption of risk is what allowed StubHub to convert the largely underground scalpers
5 market into more than \$1 billion in annual revenue. The consuming public relied on this guarantee in
6 purchasing their tickets from StubHub. Yet the truth is that StubHub’s assumption of the risk turned out
7 to be hollow. As soon as the risk materialized, the company went back on its agreement with consumers
8 *en masse*. To be sure, COVID-19 is a catastrophic event beyond Defendants’ control, but the inescapable
9 reality is that the costs of this catastrophe must fall on the party that explicitly assumed the risk. This is
10 precisely what risk-assumption is for and is precisely why StubHub has *for years* guaranteed that the
11 cancellation risks would fall on it rather than consumers.

12 4. In the early days of COVID-19 StubHub actually appeared to be taking the high road. On
13 March 8, 2020, StubHub’s President emailed StubHub customers including Plaintiff to “personally
14 reach[] out to you regarding the current Coronavirus situation” because “[w]e know it’s an unsettling
15 time for everyone and our hearts go out to those impacted.” The email’s subject line was “Coronavirus
16 Update: We have your back” and was meant to reassure customers that “**StubHub is here for you.**”
17 (Emphasis in original). Consistent with Defendants’ FanProtect Guarantee the email also emphasized
18 that “[i]f you bought tickets on StubHub to an event that is cancelled, you have two options:

19 **1. Receive a full refund of your purchase**

20 **2. Receive a coupon for 120% of your original purchase**

21 (Emphasis in original)

22 5. Yet just days later Defendants changed tack, abandoned StubHub’s longstanding
23 FanProtect Guarantee, and started refusing consumers’ refund requests. On March 25, 2020, without so
24 much as an email to consumers, StubHub changed the terms of its FanProtect Guarantee on its website,
25 now stating that “if the event is canceled and not rescheduled, you will get a refund or credit for use on
26

27 _____
28 ² Defendants recently scrubbed StubHub’s website of these references but Google’s cache prevented these items erasure from the internet.

1 a future purchase, as determined in StubHub’s sole discretion (unless a refund is required by law).”

2 6. On March 27, 2020, Sports Business reporter Darren Rovell tweeted³ about StubHub’s
3 new policy and observed as follows:

4 Instead of full refunds for canceled events, they changed it to a COUPON
5 worth 20% more than the value of the ticket. As pointed out by
6 @don_shano, this is not only absurd (fans deserve their \$ back), it’s
unethical and likely illegal.

7 7. StubHub responded that “[w]e appreciate our fans & want to create an offer of value
8 given the difficult circumstances. To thank fans for their patience we are offering 120% credit. We will
9 continue to provide refunds to buyers where required by law. This model is common practice in a number
10 of industries.”⁴

11 8. This was pure customer service drivel. As one consumer noted “[t]he funny part about
12 this is that there’s a 20% surcharge/fee for tickets, so basically @StubHub is just waiving a fee for a
13 future purchase LOL.”⁵ Another consumer correctly observed “[a]s a buyer you pay 20% or more in fees
14 so your [*sic*] just giving them an interest free loan. That also doesn’t include the risk of them going out
15 of business.”⁶ Other consumers just asked for lawyers.⁷

16 9. Worse, on March 27, 2020 StubHub posted a “Coronavirus update” on its website stating
17 that when an event is cancelled, StubHub would charge resellers to recoup the amounts buyers had paid
18 for cancelled events. In other words, StubHub possesses funds it collected from resellers for tickets to
19 now-cancelled events. This money belongs to ticket buyers like Plaintiff but StubHub has improperly
20 decided to convert those funds for its own use.

21 10. Plaintiff and the Class of Defendants’ customers she seeks to represent have been injured
22 by Defendants’ unlawful practices. Accordingly, Plaintiffs and the Class defined below seek an
23 immediate public injunction requiring StubHub to honor its longstanding refund policy, damages,

24 _____
25 ³ Available at: <https://twitter.com/stubhub/status/1243738305658830851>.

26 ⁴ *Id.*

27 ⁵ *Id.*

28 ⁶ Available at: <https://twitter.com/darrenrovell/status/1243710053066182658>.

⁷ *Id.*

1 restitution, equitable relief for StubHub’s consumer fraud, unjust enrichment, and breach of contract.

2 11. Only through a class action can Defendants’ customers remedy Defendants’ ongoing
3 wrongdoing. Because the harm suffered by each customer is small compared to the much higher cost a
4 single customer would incur in trying to challenge Defendants’ unlawful practices, it makes no financial
5 sense for an individual customer to bring his or her own lawsuit. Further, many customers don’t realize
6 they are victims of Defendants’ deceptive conduct. With this class action, Plaintiff and the Class seek to
7 level the playing field and make sure that companies like StubHub engage in fair and upright business
8 practices.

9 **JURISDICTION AND VENUE**

10 12. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1332(d)(2). The amount
11 in controversy, exclusive of interest and costs, exceeds the sum or value of \$5,000,000 and is a class
12 action in which there are more than 100 class members and diversity of citizenship exists between at
13 least one member of the Class and Defendants.

14 13. This Court has personal jurisdiction over Defendants because Defendants’ principal place
15 of business is located in this District, Defendants are registered to and do conduct continuous, permanent,
16 and substantial business activities in California and within this District, and a substantial portion of the
17 acts complained of took place in California.

18 14. Venue is proper in the Northern District of California because Defendants reside and
19 conducts substantial business within this District and a substantial part of the events that gave rise to
20 Plaintiff’s claims occurred in this District.

21 15. Intradistrict assignment: assignment to the San Francisco or Oakland Division would be
22 proper because StubHub is headquartered in San Francisco, California, and a substantial part of the
23 events or omissions which give rise to the claims alleged herein occurred in San Francisco.

24 **PARTIES**

25 16. Plaintiff Wood is a citizen of New York residing in Brooklyn, New York. On October 4,
26 2019 Plaintiff purchased two tickets to the March 20, 2020 Billie Eilish concert in Brooklyn. Plaintiff
27 paid a total of \$484.70 for the two tickets, including \$115.70 to StubHub for fees. The email confirmation
28 Plaintiff received from StubHub for this purchase urged Plaintiff to “[r]emember, your order is covered

1 by our FanProtect™ Guarantee.” On March 11, 2020 the World Health Organization declared COVID-
2 19 a pandemic. On March 12, New York Mayor Bill de Blasio declared a state of emergency, with
3 Broadway going dark, the opera silenced, and museums closing their doors. That same day New York
4 Governor Andrew Cuomo banned gatherings of more than 500 people. On March 15, all NYC schools
5 were closed. On March 16, the governors of New York, New Jersey, and Connecticut ordered the closure
6 of all non-essential businesses and banned gatherings of over 50 people across all three states. During
7 this time in mid-March 2020 Plaintiff learned that the Billie Eilish concert had been indefinitely
8 postponed, to wit, canceled. StubHub has refused Plaintiff’s refund request.

9 17. Defendant Stubhub, Inc. is a Delaware corporation headquartered in San Francisco,
10 California. Defendants own and operate StubHub as a marketplace for event tickets. The market operates
11 primarily through Defendants’ website, www.Stubhub.com.

12 18. On the website, sellers list tickets for sale to events like concerts, sporting events, comedy
13 shows, and theater. Buyers can purchase these tickets through Defendants’ website. Defendants charge
14 fees to both the buyers and sellers for this service.

15 19. Defendants John Does 1 to 10 are the additional individuals and entities who perpetrated
16 the unlawful acts described herein.

17 **FACTUAL ALLEGATIONS**

18 20. StubHub’s website provides a marketplace where ticket resellers can offer tickets to live
19 entertainment to potential ticket purchasers. Consumers can use StubHub’s website or use one of
20 StubHub’s mobile apps to find tickets available for purchase. To purchase tickets, consumers pay
21 StubHub the price set by the reseller as well as substantial additional fees that StubHub charges in
22 exchange for providing the marketplace as well as guaranteeing buyers’ purchases. After the transaction,
23 StubHub delivers the ticket to the buyer and pays the reseller. StubHub keeps the additional fees.

24 21. In 2019 alone, StubHub made over \$1 billion in fees and commissions. The company
25 bills itself as the world’s largest ticket marketplace and was recently purchased for \$4.05 billion

26 22. StubHub was founded in 2000 with the goal of converting the shady, secondary scalpers
27 ticket market into a contactless and inviting marketplace that would significantly expand the secondary
28 ticket market. Prior to internet middlemen like StubHub, consumers who missed out on purchasing

1 tickets directly from the issuer often had little choice but to purchase tickets from a scalper. If something
2 went wrong, the buyer was out of luck. As a StubHub co-founder Jeff Fluhr put it “you had the consumer
3 perception of the guy with the trench coat at the game, trying to hawk tickets out of the trunk of his car.”⁸
4 “Any time there is a fundamental consumer need for something, but . . . there’s a lack of trust, that means
5 there’s a problem that could be fixed” Fluhr noted.⁹

6 23. To build a marketplace that would combat consumer unease about the secondary ticket
7 marketplace, StubHub issued its trademarked FanProtect Guarantee. “The guarantee was in many ways
8 the nucleus of the value proposition that we were offering,” Fluhr said.¹⁰ “People were skeptical about
9 buying tickets. We were trying to be the solution and the safe alternative.”¹¹

10 24. StubHub then set out on a years-long marketing campaign to ensure that consumers knew
11 about the FanProtect Guarantee. As StubHub’s Chief Marketing Officer Ray Elias put it, “it came down
12 to being able to name it the FanProtect Guarantee, and to reinforcing and reinforcing and reinforcing
13 that StubHub, like any best-in-class e-commerce company, was going to stand behind the product that
14 we’re selling.”¹²

15 25. Part of the FanProtect Guarantee is StubHub’s commitment to provide a full refund for
16 cancelled events. StubHub has confirmed this fact several times over the years, including StubHub’s
17 President’s March 8, 2020 email to Plaintiff.

18 26. Understandably, the consuming public’s response to StubHub’s retroactive refusal to
19 honor its FanProtect Guarantee has been fierce. Below is just a small sample of the massive consumer
20 backlash that can be found on the internet:

21
22
23
24 _____
25 ⁸ Available at: <https://www.sportsbusinessdaily.com/Journal/Issues/2013/09/16/In-Depth/StubHub.aspx>.

26 ⁹ *Id.*

27 ¹⁰ *Id.*

28 ¹¹ *Id.*

¹² *Id.*



Shoelover
@Shoesinthe818

Replying to @darrenrovell and @don_shano
100% illegal @StubHub - I look forward to joining the class action lawsuit.

9:58 · 28 Mar 20 · Twitter Web App



Overworked Momager @lilgee313 · 3d

I will never purchase anything from @StubHub again. Y'all think you're slick changing your policy midway through this Quarintine and only giving credit. WTF is that?! I don't even use you guys like that to justify a credit. #StubHub

Reply icons: comment, retweet, heart, share



TheWindts @TWindts · 6d
Hey #stubhub. I live in MN & bought tix for Chicago Blackhawks game that is cancelled. Your email said I would get full refund and now I get a credit?? Your policy sucks and I want my money back. DM me pls

Reply icons: comment, retweet, heart (4), share



Kelly B. McGillivray
@kellybmcg

Replying to @darrenrovell and @don_shano
guessing StubHub did not discuss this with their legal team

20:29 · 27 Mar 20 · Twitter for Android



sportyblue @Sportyblue1 · 01 Apr
Replying to @spookyMN @darrenrovell and @don_shano
Stubhub already did a chargeback for tickets that were sold. And then are keeping the money for tickets bought. Quite the racket they have going on.

Reply icons: comment, retweet, heart, share



Dr. Not So Feel Good @FrankZ1... · 29 Mar
Replying to @darrenrovell and @don_shano
I want my money back
Not a f-i-ing coupon

Reply icons: comment, retweet, heart, share



A.J. Rizzo
@ajarjr

Replying to @calph7
They sent us an email last week giving us the choice of money back or the extra 20%. Now they went back on that email.

6:48 · 28 Mar 20 · Twitter for iPhone



Somewhere over Dwayne Bowe
@Cort9999

Replying to @darrenrovell and @don_shano
Lawsuits forthcoming....

21:30 · 27 Mar 20 · Twitter for iPhone

Reply icons: comment, retweet, heart, share



Chris Goodman @Biwabik01 · 27 Mar
Replying to @darrenrovell @seanmdav and @don_shano
SUE. THEM. #StubHubCrooks

Reply icons: comment, retweet, heart, share



Kurt DePoy
@YankeeKurt

Replying to @darrenrovell and @don_shano
Awful. And especially now when people just want their cash back in these trying times!

23:00 · 27 Mar 20 · Twitter for iPhone



John
@diduever_notice

Replying to @darrenrovell and @don_shano
Can't wait to jump on the lawsuit against @StubHub they refuse to give me my money back!

7:00 · 24 Apr 20 · Twitter for Android



chris simoneau
@chris_simoneau

Replying to @darrenrovell and @don_shano
Not "likely illegal", it is 100% illegal. Nice try, @StubHub, you f**king crooks.

11:58 · 29 Mar 20 · Twitter Web App



Beth Hill
@bethlovesUK

Replying to @unlvgy @StubHub and 2 others
Good luck to you! Coupons are not what anyone needs right now.... 🙄

9:02 · 28 Mar 20 from Georgetown, KY · Twitter for iPhone

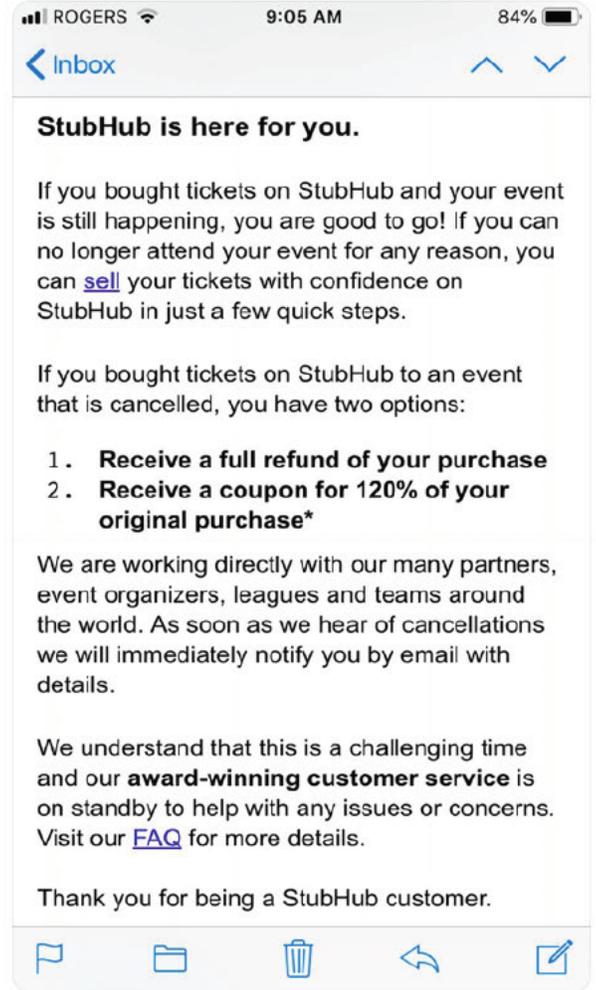


Missouri Dave-Text TRUMP to ... · 27 Mar
Replying to @darrenrovell @seanmdav and @don_shano
Class action time.



Marty Carter
@Carter9Marty

Replying to @darrenrovell and @don_shano
@sukhindersingh Hey President, what happened to the "we have your back" email from March 7th? @StubHub



11:07 · 28 Mar 20 · Twitter for iPhone



Matt @kcflyer · 01 Apr
Replying to @Carter9Marty @darrenrovell and 3 others
That's exhibit A in the lawsuit.

CLASS ALLEGATIONS

1
2 27. Plaintiff sues on her own behalf and on behalf of a Class for injunctive relief, damages,
3 and all other available relief under Rules 23(a), (b)(2), (b)(3), and (c)(4) of the Federal Rules of Civil
4 Procedure. The Class is preliminarily defined as:

5 All persons residing in the United States who purchased tickets on StubHub
6 to events that were cancelled in 2020

7 28. Plaintiff reserves the right to amend or modify the Class definition with greater specificity
8 or division into subclasses after having had an opportunity to conduct discovery.

9 29. Excluded from the Class are the officers and directors of Defendants, members of the
10 immediate families of the officers and directors of Defendants, and their legal representatives, heirs,
11 successors or assigns and any entity in which Defendants have or have had a controlling interest. Also
12 excluded are all federal, state and local government entities; and any judge, justice or judicial officer
13 presiding over this action and the members of their immediate families and judicial staff.

14 30. Plaintiff does not know the exact size of the Class, since such information is in the
15 exclusive control of Defendants. Plaintiff believes, however, that based on the publicly available data
16 concerning StubHub’s customers in the United States, the Class encompasses more than one million
17 individuals whose identities can be readily ascertained from Defendants’ records. Accordingly, the
18 members of the Class are so numerous that joinder of all such persons is impracticable.

19 31. The Class is ascertainable because its members can be readily identified using data and
20 information kept by Defendants in the usual course of business and within their control. Plaintiff
21 anticipates providing appropriate notice to each Class Member, in compliance with all applicable federal
22 rules.

23 32. Plaintiff is an adequate class representative. Her claims are typical of the claims of the
24 Class and do not conflict with the interests of any other members of the Class. Plaintiff and the other
25 members of the Class were subject to the same or similar conduct engineered by Defendants. Further,
26 Plaintiff and members of the Class sustained substantially the same injuries and damages arising out of
27 Defendants’ conduct.

28 33. Plaintiff will fairly and adequately protect the interests of all Class Members. Plaintiff

1 has retained competent and experienced class action attorneys to represent her interests and those of the
2 Class.

3 34. Questions of law and fact are common to the Class and predominate over any questions
4 affecting only individual Class Members, and a class action will generate common answers which are
5 apt to drive the resolution of this action. These questions include, without limitation, whether it was
6 deceptive or unfair for StubHub to retroactively switch from providing refunds for cancelled events to
7 coupons and whether as a matter of equity and good conscience StubHub should be required to return
8 money paid by its customers for cancelled events.

9 35. A class action is superior to all other available methods for resolving this controversy
10 because i) the prosecution of separate actions by Class Members will create a risk of adjudications with
11 respect to individual Class Members that will, as a practical matter, be dispositive of the interests of the
12 other Class Members not parties to this action, or substantially impair or impede their ability to protect
13 their interests; ii) the prosecution of separate actions by Class Members will create a risk of inconsistent
14 or varying adjudications with respect to individual Class Members, which will establish incompatible
15 standards for Defendants' conduct; iii) Defendants have acted or refused to act on grounds generally
16 applicable to all Class Members; and iv) questions of law and fact common to the Class predominate
17 over any questions affecting only individual Class Members.

18 36. Further, there are numerous issues that are also appropriately resolved on a class-wide
19 basis under FED. R. CIV. P. 23(c)(4), including without limitation whether it was deceptive or unfair for
20 StubHub to retroactively switch from providing refunds for cancelled events to coupons, and whether as
21 a matter of equity and good conscience StubHub should be required to return money paid by its
22 customers for cancelled events.

23 37. Accordingly, this action satisfies the requirements set forth under FED. R. CIV. P. 23(a),
24 23(b), and 23(c)(4).

25 **CHOICE OF LAW ALLEGATIONS**

26 38. The State of California has sufficient contacts to class members' claims such that uniform
27 application of California law to those claims is appropriate.

28 39. StubHub has been headquartered in San Francisco, California, since its founding in 2000,

1 StubHub does substantial business in California, large portion of the class is located in California, and all
2 the core decisions that gave rise to class members' claims were made from California.

3 40. StubHub's FanProtect Guarantee was developed in California, as was the prolonged
4 marketing that created pervasive awareness of the FanProtect Guarantee among consumers.

5 41. Likewise, the decision to switch from providing refunds for cancelled events to coupons in
6 the midst of a global pandemic was made by StubHub's personnel based at StubHub's headquarters in San
7 Francisco, California, as was the related decision to charge third-party resellers for money owed to
8 StubHub's customers.

9 42. StubHub also includes a California choice-of-law provision in its StubHub Marketplace
10 Global User Agreement. Although Plaintiff and the proposed class did not have proper notice of and did not
11 agree to that Global User Agreement, the agreement reflects StubHub's acquiescence to the application of
12 California law and expectation that California law will apply to claims brought by its customers.

13 43. The State of California also has a strong regulatory interest in applying its law to all class
14 members' claims. California's consumer protection law, in particular, is designed to preserve a business
15 climate in California free of unfair and deceptive practices. If California were only able to address unfair
16 business conduct when the injured consumer resides in California, that consumer protection law would be
17 largely ineffective at regulating companies who do business in all fifty states. Violators would be able to
18 keep the vast majority of their ill-gotten gains (all those obtained from non-California consumers), leaving
19 California-based companies like StubHub undeterred from engaging in similar conduct in the future.

20 **FIRST CAUSE OF ACTION**

21 **Violations of the California Consumers Legal Remedies Act, Cal. Civ. Code § 1750, *et sq.***

22 44. Plaintiff incorporates all preceding factual allegations as if fully set forth here.

23 45. Plaintiff brings this claim on her own behalf and on behalf of each member of the Class.

24 46. Plaintiff and each member of the Class are consumers who purchased tickets from
25 Defendants for personal, family or household purposes.

26 47. Plaintiff and the Class are "consumers" as that term is defined by the California
27 Consumers Legal Remedies Act (the "CLRA") in Cal. Civ. Code § 1761(d).

28 48. Defendants' ticket sales to Plaintiff and Class members are a "service" within the

1 meaning of Cal. Civ. Code § 1761(b).

2 49. Defendants’ actions, representations, and conduct are covered by the CLRA, because they
3 extend to transactions that intended to result, or which have resulted in, the sale of services to consumers.
4 Defendants sold tickets to Plaintiff and the Class members with the FanProtect Guarantee promising to
5 provide a refund if the event was cancelled.

6 50. Cal. Civ. Code § 1770(a)(5), prohibits “[r]epresenting that goods or services have
7 sponsorship, approval, characteristics, ingredients, uses, benefits, or quantities which they do not have
8 or that a person has a sponsorship, approval, status, affiliation, or connection which he or she does not
9 have.” By engaging in the conduct set forth herein, Defendants violated and continue to violate CLRA
10 Section 1770(a)(5), because Defendants’ conduct constitutes unfair methods of competition and unfair
11 or fraudulent acts or practices, in that Defendants misrepresent the particular characteristics, benefits and
12 quantities of their services.

13 51. Cal. Civ. Code § 1770(a)(7) prohibits representing that goods or services are of a
14 particular standard, quality, or grade, or that goods are of a particular style or model, if they are of
15 another. By engaging in the conduct set forth herein, Defendants violated and continue to violate CLRA
16 Section 1770(a)(7), because Defendants’ conduct constitutes unfair methods of competition and unfair
17 or fraudulent acts or practices, in that Defendants misrepresent the particular standard, quality or grade
18 of their services.

19 52. Cal. Civ. Code § 1770(a)(9) prohibits “[a]dvertising goods or services with intent not to
20 sell them as advertised.” By engaging in the conduct set forth herein, Defendants violated and continue
21 to violate Section 1770(a)(9), because Defendants’ conduct constitutes unfair methods of competition
22 and unfair or fraudulent acts or practices, in that Defendants advertise services with the intent not to sell
23 the services as advertised.

24 53. Cal. Civ. Code § 1770(a)(14) prohibits “[r]epresenting that a transaction confers or
25 involves rights, remedies, or obligations that it does not have or involve, or that are prohibited by law.”
26 By engaging in the conduct set forth herein, Defendants violated and continue to violate CLRA Section
27 1770(a)(14), because Defendants’ conduct constitutes unfair methods of competition and unfair or
28 fraudulent acts or practices, in that Defendants misrepresent the rights, remedies, and obligations of their

1 services.

2 54. Cal. Civ. Code § 1770(a)(16) prohibits “[r]epresenting that the subject of a transaction
3 has been supplied in accordance with a previous representation when it has not.” By engaging in the
4 conduct set forth herein, Defendants violated and continue to violate CLRA Section 1770(a)(16),
5 because Defendants’ conduct constitutes unfair methods of competition and unfair or fraudulent acts or
6 practices, in that Defendants misrepresent that their ticket sales have been supplied in accordance with
7 their previous representations regarding the FanProtect Guarantee when they have not.

8 55. Plaintiff and the Class acted reasonably when they purchased tickets from Defendants on
9 the belief that Defendants’ representations were true and lawful.

10 56. Plaintiff and the Class suffered injuries caused by Defendants because (a) they would not
11 have purchased tickets from StubHub absent Defendants’ representations that they would get a refund if
12 the event was cancelled; (b) they paid a price premium for tickets they purchased from Defendants based
13 on Defendants’ misrepresentations; and (c) Defendants’ ticket sales did not have the characteristics,
14 benefits, or quantities as promised.

15 57. In accordance with Cal. Civ. Code § 1780(a), Plaintiff and the Class seek injunctive and
16 equitable relief for Defendants’ CLRA violations. Plaintiff has mailed an appropriate demand letter
17 consistent with California Civil Code § 1782(a). If Defendants fail to take corrective action within 30
18 days of receipt of the demand letter, Plaintiff will amend his complaint to include a request for claims
19 for actual, punitive, and statutory damages, as appropriate.

20 **SECOND CAUSE OF ACTION**

21 **Violations of the California Unfair Competition Law, Cal. Bus. & Prof. Code § 17200, *et seq.***

22 58. Plaintiff incorporates all preceding factual allegations as if fully set forth here.

23 59. Plaintiff brings this claim on her own behalf and on behalf of each member of the Class.

24 60. Cal. Bus. & Prof Code § 17200, *et seq.* (the “UCL”) prohibits acts of “unfair
25 competition,” including any unlawful, fraudulent, or unfair business acts or practices.

26 61. Under the “unlawful” prong of the UCL, a violation of another law is treated as unfair
27 competition and is independently actionable.

28 62. Defendants committed unlawful practices because they violated *inter alia* Section 5 of

1 the Federal Trade Commission Act, 15 U.S.C. § 45(a), which declares unlawful unfair and deceptive
2 acts or practices in or affecting commerce. Defendants' conduct as alleged herein is both unfair and
3 deceptive.

4 63. Defendants also committed unlawful practices because they violated *inter alia* the
5 Consumers Legal Remedies Act, the False Advertising Law, and other applicable law as described
6 herein.

7 64. Plaintiff reserves the right to allege other violations of law which constitute other
8 unlawful business acts or practices as Defendants' conduct is ongoing and continues to this date.

9 65. Under the "unfair" prong of the UCL, a business practice is unfair if that practice offends
10 an established public policy or when the practice is immoral, unethical, oppressive, unscrupulous or
11 substantially injurious to consumers.

12 66. Defendants committed unfair acts and practices by *inter alia* Defendants' refusal to
13 refund money for tickets to events that have been cancelled.

14 67. Defendants' acts and practices are unfair because the gravity of the consequences of
15 Defendants' conduct as described above outweighs any justification, motive or reason, particularly
16 considering the available legal alternatives which exist for Defendants to conduct their business in
17 response to COVID-19. Defendants' acts and practices are also immoral, unethical, unscrupulous, and
18 offend established public policy and are substantially injurious to Plaintiff and the other members of the
19 Class and could not have been reasonably avoided by Plaintiff and the Class.

20 68. Defendants violated the fraudulent prong of the UCL by misleading Plaintiff and the
21 Class to believe that they would receive a refund for tickets for an event purchased from StubHub if the
22 event was canceled.

23 69. Plaintiff and the Class acted reasonably when they purchased tickets from Defendants on
24 the belief that canceled events would be fully refunded.

25 70. As a result of Defendants' unlawful, unfair, and fraudulent business practices, Plaintiff
26 and the Class have suffered an injury in fact and have lost money in an amount to be determined at the
27 trial of this action.

28 71. Plaintiff and the other members of the Class are entitled to an order pursuant to Cal. Bus.

1 & Prof Code §17203, enjoining Defendants’ unlawful and unfair conduct, and such other orders and
2 judgments necessary to disgorge Defendants’ ill-gotten gains and to restore to Plaintiff and the Class any
3 amounts assessed and/or paid as a result of Defendants’ wrongful conduct.

4 **THIRD CAUSE OF ACTION**

5 **Violations of the California False Advertising Law, Cal. Bus. & Prof. Code § 17500, *et seq.***

6 72. Plaintiff incorporates all preceding factual allegations as if fully set forth here.

7 73. Plaintiff brings this claim on her own behalf and on behalf of each member of the Class.

8 74. California’s False Advertising Law (the “FAL”), Cal. Bus. & Prof. Code §§ 17500, *et*
9 *seq.*, makes it “unlawful for any person to make or disseminate or cause to be made or disseminated
10 before the public in this state, . . . in any advertising device . . . or in any other manner or means whatever,
11 including over the Internet, any statement, concerning . . . personal property or services, professional or
12 otherwise, or performance or disposition thereof, which is untrue or misleading and which is known, or
13 which by the exercise of reasonable care should be known, to be untrue or misleading.”

14 75. Defendants advertised and promoted StubHub’s FanProtect Guarantee by promising to
15 give refunds to its customers if events were cancelled. Defendants’ advertisements and inducements
16 were made in and originated from California and fall within the definition of advertising as contained in
17 the FAL in that the FanProtect Guarantee was intended to induce consumers to purchase tickets from
18 StubHub. Defendants knew that those statements were false and misleading when StubHub retroactively
19 changed its policy and refused to offer refunds for events that were cancelled.

20 76. Defendants’ advertising that StubHub would provide refunds for events that were
21 cancelled was false and misleading to a reasonable consumer, including Plaintiff, because Defendants in
22 fact refused to provide refunds to ticket purchasers for events that were cancelled.

23 77. Defendants violated the FAL by misleading Plaintiff and the Class to believe that they
24 would receive refunds if the events they purchased tickets for were cancelled.

25 78. Defendants knew or should have known, through the exercise of reasonable care that their
26 statements about refunds were false and misleading.

27 79. Plaintiff and the Class lost money or property as a result of Defendants’ FAL violations
28 because (a) they would not have purchased tickets from StubHub absent Defendants’ representations

1 that StubHub would provide refunds if the event was cancelled; (b) they would not have purchased
2 tickets on the same terms absent Defendants’ misrepresentations; (c) they paid a price premium for
3 tickets based on Defendants’ misrepresentations; and (d) Defendants’ ticket sales did not have the
4 characteristics, benefits, or quantities as promised.

5 **FOURTH CAUSE OF ACTION**

6 **Conversion**

7 80. Plaintiff incorporates all preceding factual allegations as if fully set forth here.

8 81. Plaintiff brings this claim on her own behalf and on behalf of each member of the Class.

9 82. Plaintiff and the Class purchased tickets from third-party resellers, with StubHub acting
10 as the intermediary for those purchases. StubHub has publicly confirmed that it is not the seller for
11 purchases made through its website or mobile apps, including by repeatedly stating: “We do not own
12 any of the tickets listed on our site. When buyers place an order for tickets on our site, they are purchasing
13 from a third-party individual seller.”

14 83. The events for which Plaintiff and the Class purchased tickets were cancelled. When an
15 event is cancelled, the original ticket vendor has an obligation to repay the original purchaser. Likewise,
16 if the tickets were resold, as they were here, the reseller has an obligation to repay the secondary
17 purchaser. Accordingly, Plaintiff and the Class are legally and equitably entitled to the funds they paid
18 third-party resellers for their tickets.

19 84. Defendant StubHub is in possession of the refunds to which Plaintiff and class members
20 are entitled. As StubHub stated in its “Coronavirus update,” it is charging third-party resellers to recoup
21 any proceeds it previously turned over to the resellers.

22 85. Instead of turning the refunds over to Plaintiff and the Class, StubHub has converted them
23 for its own use and is instead giving buyers a coupon that is valid only for future tickets purchased
24 through StubHub, and only for a limited time.

25 86. Plaintiff and the Class did not consent to StubHub’s taking possession of the money owed
26 to them by the third-party resellers and did not consent to StubHub’s conversion of that money for its
27 own use.

28 87. As a result of StubHub’s conversion, Plaintiff and the Class have lost the use of their

1 money during a public-health and economic crisis and have suffered damages in an amount according
2 to proof.

3 88. Plaintiff and the Class seek an award of compensatory and punitive damages against
4 StubHub, whose conduct evidences a willful, wanton, and reckless disregard for the rights, health, and
5 safety of Plaintiff and the Class.

6 **FIFTH CAUSE OF ACTION**

7 **Restitution – Money Had and Received**

8 89. Plaintiff incorporates all preceding factual allegations as if fully set forth here.

9 90. Plaintiff brings this claim on her own behalf and on behalf of each member of the Class.

10 91. Without intending to make an election of remedies, Plaintiff and the Class seek restitution
11 from Defendants for money had and received.

12 92. Defendants received money from Plaintiff and the Class that was intended to be used for
13 their benefit.

14 93. Defendants did not use the money received from Plaintiff and the Class for their benefit
15 and has not returned the money to them. As a matter of equity and good conscience, that money should
16 be returned to Plaintiff and Class.

17 **SIXTH CAUSE OF ACTION**

18 **Negligent Misrepresentation**

19 94. Plaintiff incorporates all preceding factual allegations as if fully set forth here.

20 95. Plaintiff brings this claim on her own behalf and on behalf of each member of the Class.

21 96. Defendants misrepresented that StubHub provides refunds for tickets purchased for
22 events that are cancelled. However, Defendants in fact refuse to provide refunds for tickets to events that
23 are cancelled.

24 97. At the time Defendants made these representations, Defendants knew or should have
25 known that these representations were false or made them without knowledge of their truth or veracity.

26 98. Defendants also negligently misrepresented and/or negligently omitted material facts
27 about StubHub’s ticket refund policy.

28 99. The negligent misrepresentations and omissions made by Defendants, upon which

1 Plaintiff and the Class reasonably and justifiably relied, were intended to induce and actually induced
2 Plaintiff and the Class to purchase tickets from Defendants.

3 100. Plaintiff and the Class would not have purchased tickets from Defendants or would not
4 have purchased the tickets on the same terms, if the true facts had been known.

5 101. The negligent actions of Defendants caused damage to Plaintiff and the Class members,
6 who are entitled to damages and other legal and equitable relief as a result.

7 **SEVENTH CAUSE OF ACTION**

8 **Unjust Enrichment**

9 102. Plaintiff incorporates all preceding factual allegations as if fully set forth here.

10 103. Plaintiff brings this claim on her own behalf and on behalf of each member of the Class.

11 104. As a result of their unjust conduct, Defendants have been unjustly enriched.

12 105. By reason of Defendants' wrongful conduct, Defendants have benefited from receipt of
13 improper funds, and under principles of equity and good conscience, Defendants should not be permitted
14 to keep this money.

15 106. As a result of Defendants' conduct it would be unjust and/or inequitable for Defendants
16 to retain the benefits of their conduct without restitution to Plaintiffs and the Class. Accordingly,
17 Defendants must account to Plaintiffs and the Class for their unjust enrichment.

18 **REQUEST FOR RELIEF**

19 WHEREFORE, Plaintiff, on behalf of herself and the class of similarly situated individuals,
20 requests that the Court:

- 21 a) Issue an order certifying the Class defined above, appointing the Plaintiff as Class
22 Representative, and designating the undersigned firms as Class Counsel;
- 23 b) Find that Defendants have committed the violations of law alleged herein;
- 24 c) Render an award of compensatory damages of at least \$100,000,000, the precise amount of
25 which is to be determined at trial;
- 26 d) Issue an injunction or other appropriate equitable relief requiring Defendants to refrain from
27 engaging in the deceptive practices alleged herein;
- 28 e) Declare that Defendants have committed the violations of law alleged herein;

- 1 f) Render an award of punitive damages;
2 g) Enter judgment including post and prejudgment interest, costs and expenses, reasonable
3 attorneys' fees; and
4 h) Grant all such other relief as the Court deems appropriate.

5 **JURY DEMAND**

6 Plaintiff hereby demands a trial by jury on all issues so triable.

7
8 Respectfully submitted,

9 Dated: June 22, 2020

/s/ Tina Wolfson

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24 tpalikovic@wittelslaw.com
25 (* *pro hac vice* applications forthcoming)

26
27 *Attorneys for Plaintiff and the Proposed Class*
28

AFFIDAVIT OF TINA WOLFSON

I, Tina Wolfson, declare as follows:

1. I am an attorney with the law firm of Ahdoot & Wolfson, PC, counsel for Plaintiff Stephanie Wood (“Plaintiff”) in this action. I am admitted to practice law in California and before this Court, and I am a member in good standing of the State Bar of California. This declaration is made pursuant to California Civil Code section 1780(d). I make this declaration based on my research of public records and upon personal knowledge and, if called upon to do so, could and would testify competently thereto.

2. Venue is proper in this Court because Plaintiff suffered injuries as a result of actions of Defendant StubHub, Inc. (“Defendant”) in San Francisco County, many of the acts and transactions giving rise to this action occurred in San Francisco County, and Defendant (1) resides and conducts business in this County, (2) has intentionally availed itself of the laws and markets of California and the County of San Francisco through the provision of its services in this County, and (3) is subject to personal jurisdiction in this County.

3. Plaintiff is a citizen and resident of Kings County in New York.

4. Defendant is a Delaware corporation with its principal place of business located within the County of San Francisco at 199 Fremont Street, San Francisco, California 94105.

I declare under penalty of perjury under the laws of the State of California this 22nd day of June, 2020, in Los Angeles, California that the foregoing is true and correct.

/s/ Tina Wolfson
Tina Wolfson

CIVIL COVER SHEET

The JS-CAND 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved in its original form by the Judicial Conference of the United States in September 1974, is required for the Clerk of Court to initiate the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

STEPHANIE WOOD, individually and on behalf of all others similarly situated,

(b) County of Residence of First Listed Plaintiff Kings (NY) (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Tina Wolfson, Ahdoot & Wolfson, PC; 10728 Lindbrook Drive Los Angeles, CA 90024; T: (310) 474-9111

DEFENDANTS

STUBHUB, INC.; and JOHN DOES 1 to 10,

County of Residence of First Listed Defendant (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff 3 Federal Question (U.S. Government Not a Party)
2 U.S. Government Defendant X 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

Table with columns for Plaintiff (PTF) and Defendant (DEF) citizenship and incorporation status. Includes options like 'Citizen of This State', 'Incorporated or Principal Place of Business in This State', etc.

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Large table with columns for CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, and OTHER STATUTES. Includes various legal categories like '110 Insurance', '310 Airplane', '625 Drug Related Seizure of Property', etc.

V. ORIGIN (Place an "X" in One Box Only)

- X 1 Original Proceeding 2 Removed from State Court 3 Remanded from Appellate Court 4 Reinstated or Reopened 5 Transferred from Another District (specify) 6 Multidistrict Litigation-Transfer 8 Multidistrict Litigation-Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

28 U.S.C. 1332(d)

Brief description of cause:

Failure to provide refunds to customers who purchased tickets to events canceled due to COVID-19

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, Fed. R. Civ. P. DEMAND \$ 5,000,000

CHECK YES only if demanded in complaint: JURY DEMAND: X Yes No

VIII. RELATED CASE(S), IF ANY (See instructions):

JUDGE Haywood S. Gilliam, Jr.

DOCKET NUMBER 4:20-cv-02595; 4:20-cv-03025

IX. DIVISIONAL ASSIGNMENT (Civil Local Rule 3-2)

(Place an "X" in One Box Only) X SAN FRANCISCO/OAKLAND SAN JOSE EUREKA-MCKINLEYVILLE

DATE 06/22/2020

SIGNATURE OF ATTORNEY OF RECORD

/s/ Tina Wolfson

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS-CAND 44

Authority For Civil Cover Sheet. The JS-CAND 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved in its original form by the Judicial Conference of the United States in September 1974, is required for the Clerk of Court to initiate the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I. a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the “defendant” is the location of the tract of land involved.)
- c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section “(see attachment).”
- II. Jurisdiction.** The basis of jurisdiction is set forth under Federal Rule of Civil Procedure 8(a), which requires that jurisdictions be shown in pleadings. Place an “X” in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
- (1) United States plaintiff. Jurisdiction based on 28 USC §§ 1345 and 1348. Suits by agencies and officers of the United States are included here.
 - (2) United States defendant. When the plaintiff is suing the United States, its officers or agencies, place an “X” in this box.
 - (3) Federal question. This refers to suits under 28 USC § 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 - (4) Diversity of citizenship. This refers to suits under 28 USC § 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS-CAND 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an “X” in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- V. Origin.** Place an “X” in one of the six boxes.
- (1) Original Proceedings. Cases originating in the United States district courts.
 - (2) Removed from State Court. Proceedings initiated in state courts may be removed to the district courts under Title 28 USC § 1441. When the petition for removal is granted, check this box.
 - (3) Remanded from Appellate Court. Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 - (4) Reinstated or Reopened. Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 - (5) Transferred from Another District. For cases transferred under Title 28 USC § 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 - (6) Multidistrict Litigation Transfer. Check this box when a multidistrict case is transferred into the district under authority of Title 28 USC § 1407. When this box is checked, do not check (5) above.
 - (8) Multidistrict Litigation Direct File. Check this box when a multidistrict litigation case is filed in the same district as the Master MDL docket. Please note that there is no Origin Code 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC § 553. Brief Description: Unauthorized reception of cable service.
- VII. Requested in Complaint.** Class Action. Place an “X” in this box if you are filing a class action under Federal Rule of Civil Procedure 23. Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction. Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS-CAND 44 is used to identify related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.
- IX. Divisional Assignment.** If the Nature of Suit is under Property Rights or Prisoner Petitions or the matter is a Securities Class Action, leave this section blank. For all other cases, identify the divisional venue according to Civil Local Rule 3-2: “the county in which a substantial part of the events or omissions which give rise to the claim occurred or in which a substantial part of the property that is the subject of the action is situated.”
- Date and Attorney Signature.** Date and sign the civil cover sheet.

ClassAction.org

This complaint is part of ClassAction.org's searchable [class action lawsuit database](#)
