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11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
12 **FOR THE COUNTY OF SAN FRANCISCO**
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14
15 SUSAN WANG, RENE' LEE, and all others
similarly situated.

16 Plaintiffs,

17 v.

18 STUBHUB, INC.,

19 Defendant.
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CASE NO: CGC-18564120

**SECOND AMENDED CLASS ACTION
COMPLAINT**

COMPLAINT FOR:

1. Violations of California Business and Professions Code section 17500;
2. Violations of California Business and Professions Code section 17200; and
3. Violations of California's Consumers Legal Remedies Act, Civil Code section 1750

Judge Mary E. Wiss
Department 305

Complaint Filed February 1, 2018

1 Plaintiffs RENE' LEE ("Lee") and SUSAN WANG ("Wang"), individually and on behalf of
2 all others similarly situated, bring this Class Action against Defendant StubHub, Inc. ("Defendant"
3 or "StubHub"). Plaintiffs, by and through counsel, make the following allegations pursuant to the
4 investigation of counsel and based upon information and belief, except as to allegations specifically
5 pertaining to themselves, which are based on personal knowledge:

6 **NATURE OF THE CASE**

7 1. Defendant StubHub lures consumers into purchasing tickets for concerts, sporting
8 events, and other live entertainment from StubHub's website by advertising artificially low ticket
9 prices while hiding the amount of added fees that Defendant charges for each sale. Specifically,
10 StubHub advertises misleading ticket prices that do not include added fees. Only at checkout does
11 StubHub for the first time list a total amount that includes hidden service and delivery fees—after
12 consumers have already selected seats at a lower advertised price (that does not include fees),
13 created a StubHub account or entered login credentials, entered credit card information, made the
14 decision to buy, and clicked "go to check out." In addition, rather than itemizing those fees at
15 checkout, the amount of additional fees included in the total purchase price is hidden in a separate
16 link.

17 2. Because StubHub intentionally hides additional fees in a separate link that is not
18 automatically presented to customers as part of the transaction, reasonable consumers are drawn in
19 by deceptively low ticket prices advertised in an initial search, and then proceed through check out
20 without ever becoming aware of the amount of the so-called "service and delivery fees" that have
21 automatically been included in the total price.

22 3. Even if a customer does go through the additional effort of identifying and clicking
23 on the pricing details link, many consumers, now invested in the decision to buy, nonetheless buy at
24 the inflated price, even though that was not what they thought they had bargained for.

25 4. By hiding added fees in a link at the very last step of the sale, Defendant has raked in
26 millions of dollars in ticket sales and in hidden additional fees at the expense of consumers drawn in
27 by artificially low ticket prices.

1 5. As a result of Defendant’s false advertising, Plaintiffs and the proposed class have
2 suffered damages. They purchased tickets they would not otherwise have bought, and paid fees they
3 would not otherwise have paid, had they not been drawn in by Defendant’s deceptively low ticket
4 prices.

5 6. Defendant’s misleading advertised ticket prices and bait-and-switch scheme
6 constitutes false and misleading advertising in violation of California’s Unfair Competition Law (the
7 “UCL”) (Cal. Bus. & Prof. Code § 17200), California’s False Advertising Law (the “FAL”) (Cal.
8 Bus. & Prof. Code § 17500) and California’s Consumer Legal Remedies Act (the “CLRA”) (Cal. Civ.
9 Code §§ 1750 *et seq.*).

PARTIES

10 7. Plaintiff Wang is a resident of Boulder, Colorado. At the time of filing, and at all
11 times relevant herein, she was a resident of Monterey, California. In June 2018 Plaintiff Wang
12 moved to Boulder, Colorado.

13 8. Plaintiff Lee is a resident of Long Beach, California.

14 9. Plaintiffs seek relief in their individual capacities and on behalf of a class of all
15 others similarly situated.

16 10. Defendant StubHub, Inc. (“StubHub”) is a corporation organized and existing under
17 the laws of the State of Delaware, doing business in the State of California, with its headquarters in
18 the City and County of San Francisco.

JURISDICTION AND VENUE

19 11. This Court has subject matter jurisdiction over this action pursuant to California
20 Code of Civil Procedure section 410.10, California Business and Professions Code sections 17203,
21 17204, 17535, and California Civil Code section 1780. This Court has jurisdiction over the parties
22 because Plaintiffs submit to the jurisdiction of this Court, and Defendant StubHub is headquartered
23 in the County of San Francisco, in the State of California.

24 12. Venue is proper in this Court pursuant to California Code of Civil Procedure sections
25 395 and 395.5, California Business and Professions Code sections 17203, 17204, and 17535, and
26 California Civil Code section 1780(d) because Defendant does business in this county and
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1 Plaintiffs’ transactions with Defendant took place in this county. Plaintiffs’ declarations stating facts
2 showing that this action has been commenced in a proper place for trial are attached.

3 **FACTS COMMON TO ALL CLAIMS**

4 **I. StubHub’s “Bait-and-Switch” Pricing Scheme**

5 13. StubHub is one of the many online ticket exchange websites that offer consumers the
6 ability to purchase tickets for sports, concerts, theater, and other live entertainment events.

7 14. Consumers can use the StubHub website (<http://www.stubhub.com>) to search for and
8 purchase tickets to events happening across the country.

9 15. StubHub, a market leader in online ticket exchange websites, advertises artificially
10 low ticket prices to gouge consumers with hidden added fees via a deceptive bait-and-switch
11 scheme that misleads consumers as to the actual price of tickets purchased through StubHub’s site.

12 16. StubHub charges additional fees above and beyond the advertised prices of the
13 tickets sold on their website. These hidden fees are not disclosed when the initial ticket price is
14 displayed. In fact, StubHub does not disclose these fees to customers until the very last step in the
15 purchase—after the customer has already gone through several steps to commit to the purchase by
16 searching for tickets, selecting seats, creating or logging into a StubHub account, making the
17 decision to buy, and clicking go to check out.

18 17. To make matters worse, even at the point of purchase, StubHub still does not
19 disclose the amount of additional fees charged. Instead, StubHub’s website displays only a total
20 purchase price that includes both the ticket price and the fees. Customers are required to click on an
21 additional link to find out the amount of additional fees assessed.

22 18. Even if a customer does go through the additional effort of identifying and clicking
23 on the additional link, StubHub merely lists a total amount that it claims represents “all service and
24 delivery fees.” At no point are service fees, on the one hand, or delivery fees, on the other, itemized
25 or broken down.

26 19. The “service and delivery fees,” unlike taxes or standard shipping fees, are not a set
27 fee amount or even a set percentage on every purchase. Instead, they can range from 24% to 29% of
28

1 the ticket cost.¹ Since the fees range dramatically, consumers cannot predict the amount of the fee
2 that will be added to the total amount after they have already gone through several steps and made
3 the decision to buy.

4 20. Because StubHub’s ambiguous service and delivery fees are not based on a standard
5 fee amount or even a set percentage, they are unlikely to be accurately anticipated by consumers—
6 unlike taxes or standard shipping fees.

7 21. The fact that the “service and delivery fees” are calculated as a percentage of the
8 ticket price, as well as the fact that the amount of service fees versus delivery fees is never
9 disclosed, suggests that the total “service and delivery fees” are not tethered to any actual service or
10 expense. Moreover, tickets purchased through StubHub are often accessed through digital
11 downloads. There is no reason why StubHub would incur expenses of over 20% of the ticket price
12 to deliver a digital download. Thus, it can be inferred that the fees do not compensate Defendant for
13 any particular “service” or any particular expense related to “delivery.” Accordingly, the “service
14 and delivery fees” are pure profit-generators.

15 22. StubHub therefore misleads even those customers who do click through the “Price
16 details” and “i” links by representing that the fees they charge are related to the cost of processing
17 ticket purchases or delivering tickets.

18 23. StubHub never discloses to purchasers that the fees it assesses on tickets are purely
19 profit generators. It intentionally omits this important information.

20 24. StubHub’s deceptive pricing scheme is accomplished in the manner depicted below.
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28 ¹ See NAD Press Release dated January 16, 2018, available at <http://www.asrcreviews.org/nad-refers-stubhub-pricing-claims-to-ftc-for-further-review-after-advertiser-declines-to-comply-with-nad-decision-on-disclosures/>

25. On the StubHub website, ticket pricing is advertised during the consumer's initial search for tickets. For example, a consumer seeking to purchase tickets to the Eagles with Zac Brown concert on September 20, 2018 would see tickets advertised at \$131.00 per ticket:

Eagles with Zac Brown Band Tickets
Thu, Sep 20 at 5:00 PM

Zone Section

^

Lowest price	Best value	Best seats	
Section	Row	Price	Value
View 304 2 tickets	17 Instant Download	\$131.00 /ea	
View 305 2-6 tickets	4 Instant Download	\$131.98 /ea	
View 326 2 tickets	18 Instant Download	\$132.00 /ea	
View 331 1-8 tickets	10 Instant Download	\$133.00 /ea	

1 26. After a consumer selects a seat, StubHub continues to advertise the same ticket price
2 that came up in the initial search:



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10

Map is not drawn to scale and may not include all details.

11

SELECTED SEATS

12

SECTION	ROW	SEATS
View 304	17	

13

DELIVERY

14

Instant download
Ready to download and print within minutes.

15

NUMBER OF TICKETS

16

2 tickets

17

TICKET PRICE

18

\$131.00 each

19
20

Go to checkout

21 27. After clicking the “Go to checkout” button, customers are required to either login to
22 an account, or to create one by entering their email address, street address, and password. Customers
23 are also required to enter credit card information or select a credit card that is already on file.

24 28. Only then, after a purchaser clicks through to the final checkout page, is the total
25 price displayed. In the example above, the price of two \$131 tickets becomes \$319.40. The
26 additional fees are not itemized or disclosed unless customers affirmatively click on the small
27 “Pricing details” link on a traditional computer browser, or an “i” symbol on a mobile device.
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THU
SEP 20

Eagles with Zac Brown Band Tickets

5:00 PM - AT&T Park - San Francisco, CA

DISCOUNT CODES [Add discounts](#)
None

PAYMENT METHOD [Change payment](#)

**** 1345

SEATS 2 Tickets

SECTION	ROW
View 304	17

Your seats will be together

DELIVERY **Instant download**
Ready to download and print within minutes.

ORDER TOTAL
\$319.40 USD
Includes all fees [Pricing details](#)


Prices are set by sellers and may be above face value.


Buy now

(as shown on a traditional computer browser)

DISCOUNT CODES
[Add discounts](#)
None

PAYMENT METHOD
[Change payment](#)

 **** 1345

ORDER TOTAL
\$319.40 USD
Includes all fees 

Prices are set by sellers and may be above face value.

Buy now

(as shown on a mobile device)

1
2 29. The fees are not disclosed or itemized unless the customer affirmatively clicks the
3 “Pricing details” link or “i” symbol:

4 Review And Buy

7 **THU** | **Eagles with Zac Brown Band**
SEP 20 **Tickets**

8 5:00 PM - AT&T Park - San Francisco, CA

9 **DISCOUNT CODES** [Add discounts](#)
None

10 **PAYMENT METHOD** [Change payment](#)

11 **SEATS** 2 Tickets ***** 1345

12 SECTION ROW
View 304 17

13 Your seats will be together

14 **DELIVERY** **Instant download**
Ready to download and print within minutes.

15 **ORDER TOTAL**
\$319.40 USD
Includes all fees [Pricing details](#)

Ticket price	2 x \$131.00
Total fees*	2 x \$28.70

*Includes all service and delivery fees.

16 Prices are set by sellers and may be above face value.

17 [Buy now](#)

18
19 (as shown on a traditional computer browser)

PAYMENT METHOD

Change payment

AMERICAN EXPRESS **** 1345

Enter CVV

ORDER TOTAL

\$319.40 USD

Includes all fees

Ticket price	2 x \$131.00
Total fees*	2 x \$28.70
*Includes all service and delivery fees.	

Prices are set by sellers and may be above face value.

Buy now

(as shown on a mobile device)

30. The service and delivery fees that make up the “Total fees” are never delineated.

31. Thus, by the time consumers are confronted with a total price that includes added fees, consumers have already taken several steps to commit to the transaction, including searching for tickets, selecting seats, creating or logging into an account, making the decision to buy, and entering their credit card information. And, in order to see the amount of fees, customers are required to take the additional step of identifying and clicking the “Pricing details” link or “i” symbol.

32. In essence, StubHub’s pricing scheme is a classic form of “bait and switch” advertising.

33. In such a scheme, consumers rely on the deceptive advertising to decide to buy merchandise. Then, even if the deception is revealed after making the additional effort to click on the link, the consumer, now invested in the decision to buy and swept up in the momentum of

1 events, nonetheless buys at the inflated price, despite his or her better judgment. Such false and
2 misleading advertising is actionable under California consumer protection laws.

3 34. Defendant is a large online retailers that are sophisticated with respect to advertising.
4 Defendant knows (or should know) that its pricing practices operate as a bait-and-switch.

5 35. In fact, in the past, StubHub listed prices inclusive of fees before the customer
6 reached the check-out page. When it lost market share as a result of its transparency, StubHub
7 changed its practice to hide its fees from customers until after the customer made the decision to
8 make a purchase.²

9 36. Defendant therefore knows perfectly well that customers are influenced by the ticket
10 prices that are displayed prior to the checkout screen, such as when the customer searches for tickets
11 and selects seats.

12 37. Defendant also knows that StubHub's pricing practices divert business to StubHub
13 that would otherwise have gone to StubHub's competitors.

14 38. It is indisputable that the price of tickets sold by StubHub is material.

15 39. It is also indisputable that the fact that the price of tickets advertised by StubHub on
16 its website does not match the total purchase price of the tickets was and is material to the
17 consumers to whom the advertising was and is directed.

18 40. The fact that StubHub's tickets are profit generators, rather than intended to
19 compensate StubHub for any particular service or for any particular cost associated with the
20 delivery of the tickets to the purchaser, is also material to the consumers to whom the advertising
21 was and is directed.

22 41. Unsurprisingly, many consumers have been duped into purchasing tickets from
23 StubHub by its false and misleading pricing practices.

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28 ² See NAD Press Release dated January 16, 2018, available at <http://www.asrcreviews.org/nad-refers-stubhub-pricing-claims-to-ftc-for-further-review-after-advertiser-declines-to-comply-with-nad-decision-on-disclosures/>

1 42. All consumers who have been enticed into purchasing tickets from StubHub by the
2 pricing practices described in this Complaint have suffered damage as a result of StubHub’s false
3 and misleading pricing practices.

4 43. The consumers who purchased tickets from StubHub suffered damage in the amount
5 of hidden fees that they paid, in amounts that will be proven at trial.

6 **II. The National Advertising Division of the Better Business Bureau Recently Condemned
StubHub’s Advertising.**

7 44. The National Advertising Division (the “NAD”), administered by the Better
8 Business Bureau, monitors national advertising for truth and accuracy.

9 45. Recently, the NAD reviewed the issue of whether consumers could be misled about
10 the total cost of StubHub’s tickets, including the pricing details of all fees, because the fees are not
11 disclosed when the initial ticket price is displayed.

12 46. Based on its review, the NAD recommended that StubHub disclose the additional
13 fees and taxes applied to each ticket purchase.

14 47. StubHub declined to do so.

15 48. In its recommendation, the NAD emphasized that “[T]he initial advertising
16 interaction between a consumer and an advertiser should be truthful as this initial contact affects
17 consumer behavior and determines whether the consumer will choose to learn more about the
18 product and ultimately make a purchase.”³

19 49. The NAD also noted that consumers seeking to compare prices before making a
20 purchase lacked material information about the fees charged from competing online ticket vendors.

21 50. The NAD has routinely held that information that is material to a claim must be
22 clearly disclosed in close proximity to the claim.

23 51. The NAD also concluded that, if material fees are added to the ticket price at check-
24 out, these fees should be disclosed clearly and conspicuously when the initial price is advertised.

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27 ³ See NAD Press Release dated January 16, 2018, available at <http://www.asrcreviews.org/nad-refers-stubhub-pricing-claims-to-ftc-for-further-review-after-advertiser-declines-to-comply-with-nad-decision-on-disclosures/>
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1 **III. StubHub’s Pricing Practices Do Not Comply with FTC Guidance.**

2 52. StubHub’s pricing practices do not comport with FTC guidance on online advertising
3 and sales, further demonstrating that StubHub’s practices are deceptive and unfair.

4 53. In its 2013 publication “.com Disclosures: How to Make Effective Disclosures in
5 Digital Advertising,” the FTC makes clear that when advertising and selling are combined on a
6 website or mobile application, and the consumer will be completing the transaction online,
7 disclosures should be provided before the consumer makes the decision to buy—for example,
8 before the consumer “add[s] to shopping cart.”⁴

9 54. In StubHub’s case, according to this guidance, the additional fees should be
10 disclosed before the customer has to select a seat or click “go to checkout.” Instead, the fees are not
11 disclosed until the very end of the transaction, after the customer has already provided his or her
12 credit card information and made the decision to buy.

13 55. The FTC also states that required disclosures must be clear and conspicuous.
14 StubHub does not disclose its additional fees in a clear or conspicuous manner. Instead, it hides fees
15 from consumers until the very end of the transaction in a separate link that is not automatically
16 shown to consumers.

17 56. According to the FTC, disclosures that are an integral part of a claim or inseparable
18 from it should not be communicated through a hyperlink. “This is particularly true for cost
19 information [I]f a product’s basic cost (e.g., the cost of the item before taxes, shipping and
20 handling, *and any other fees* are added on) is advertised on one page, but there are significant
21 additional fees the consumer would not expect to incur in order to purchase the product or use it on
22 an ongoing basis, *the existence and nature of those additional fees should be disclosed on the same*
23 *page and immediately adjacent to the cost claim*, and with appropriate prominence.” (emphasis
24 added).⁵

25 _____
26 ⁴ Fed. Trade Comm’n, .com Disclosures: How to Make Effective Disclosures in Digital Advertising
27 at ii, 14 (Mar. 2013), *available at* <https://www.ftc.gov/sites/default/files/attachments/press-releases/ftc-staff-revises-online-advertising-disclosure-guidelines/130312dotcomdisclosures.pdf>.

28 ⁵ *Id.* at 10.

1 57. Instead of following the FTC’s practices, StubHub hides its fees behind a hyperlink.

2 58. Worse, the hyperlinks that StubHub uses do not convey the importance, nature, or
3 relevance of the fee information. According to the FTC, hyperlinks that simply say “more
4 information” or “details” do not adequately disclose the information to which they lead. StubHub’s
5 hyperlinks, which are labeled “Pricing details” and “i,” do not adequately disclose that they contain
6 information about the fees charged by StubHub.⁶

7 **IV. Named Plaintiffs’ Claims**

8 **A. Plaintiff Wang**

9 59. Wang has used StubHub to purchase tickets on at least one occasion.

10 60. On December 9, 2016, while residing in California, Wang searched for tickets to a
11 concert featuring the electronic music duo Odesza.

12 61. Through her search, Wang identified a ticket at the price of \$118.00.

13 62. Relying on the \$118.00 price, Wang selected a specific seat for that price.

14 63. When she clicked on the seat she wanted based on the advertised price, another
15 screen again stated that her selected seat was priced at \$118.00.

16 64. Relying on the \$118.00 price, Wang selected “Go to checkout.”

17 65. After she selected “Go to checkout,” StubHub prompted her to enter her login
18 information, which she had to look up.

19 66. After she entered her login information, she also was prompted to, and did, enter her
20 payment information.

21 67. Only after Wang selected the ticket, her seat, looked up her password, logged in,
22 entered her payment information, made the decision to buy, and clicked through the StubHub
23 website to the final purchase page did Defendant reveal the total price of the ticket: \$141.63.

24 68. Wang did not see the hyperlink to click on to find out more about the fees that
25 inflated the ticket price to \$141.63.

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⁶ *Id.* at 12.

1 69. Wang selected her tickets based on an initial lower price. She relied on the initial
2 lower price in deciding to purchase the ticket. Wang did not learn of the actual, inflated ticket prices
3 until she reached the final purchase page because Defendant had not disclosed that information to
4 her.

5 70. Even though Wang noticed the actual ticket prices were higher than the prices
6 initially advertised—and even if she had clicked on the hyperlink to look at information about
7 StubHub’s fees—since she had already gone through several steps, including selecting her seats and
8 entering her login and credit card information, she purchased the tickets at an inflated price.

9 71. The pressure these events, including having selected a seat at an advertised price and
10 entering payment information, brought to bear on Wang’s judgment played a substantial role in
11 leading her to purchase the tickets she did, even though the price appeared higher than she expected
12 at checkout.

13 72. Because she only ever saw a total price after she had gone through several steps
14 toward purchasing her ticket, she was too far down the road to purchase to effectively price shop
15 with other vendors, like Ticketmaster.

16 73. If Wang had known that the “service and delivery fees” were in fact just a secret
17 profit-generator, unrelated to the cost of actually processing her ticket purchase, she would not have
18 paid the charge if there were a viable option to purchase tickets without incurring it.

19 74. Defendant’s deceptive lower advertised price was a substantial factor in causing
20 Wang’s decision to buy.

21 75. If Defendant were enjoined from waiting until the end to disclose the amount of fees
22 in a hyperlink, and Wang could instead consider the addition and amount of fees at the outset, she
23 would purchase tickets from StubHub again in the future.

24 **B. Plaintiff Lee**

25 76. Lee first used StubHub to purchase tickets on December 5, 2017. Lee resided in
26 Long Beach, CA at the time.

27 77. That day, Lee used StubHub to search for tickets to see Gregory Porter, a prominent
28 jazz musician, at The Theatre at Ace in Los Angeles, CA. She hoped to bring her mother to see the

1 show for her birthday. While searching for tickets she found some reasonably priced tickets on
2 other sites but that were too far back and too high up in the venue. As a result, Lee decided not to
3 purchase those tickets on other sites, and intended to keep thinking of other options for her mother's
4 birthday.

5 78. As she continued her search, Lee identified two tickets on StubHub that were
6 advertised at a specific low price within her budget that were around the price of the cheaper but
7 higher up tickets she had seen on other sites.

8 79. Relying on the advertised price, Lee selected specific tickets in specific seats (seats 9
9 and 10 of Row K) for that price. She was thrilled to find good seats at a similar price to the high up
10 and far back seats available on other sites that she had identified in her search.

11 80. When she clicked on the seats she wanted based on the advertised price, another
12 screen again stated that her selected seat was priced at the originally advertised price.

13 81. Relying on the advertised price, Lee selected "Go to checkout."

14 82. After she selected "Go to checkout," StubHub prompted Lee to enter her login
15 information or create an account. Lee did not have a StubHub account because it was her first time
16 purchasing tickets through StubHub.

17 83. As Lee entered her personal information, including name, address, and credit card
18 information, she made the decision to purchase the tickets at the originally advertised price. Having
19 entered payment information, and having made the decision to purchase the tickets, Lee clicked to
20 the final screen.

21 84. Only after Lee entered her personal information and clicked through the StubHub
22 website to the final purchase page did StubHub reveal the total price of the tickets: \$344.00. This
23 price was significantly higher than the price initially advertised due to the addition of fees. Lee was
24 shocked at how much higher the ticket price was once the fees were added.⁷

25 _____
26 ⁷ Lee's receipt from StubHub did not include a breakdown of ticket price and fee. Since StubHub
27 does not use a consistent method of calculating fees, such as a percentage or a flat fee, it is not possible
28 for Lee to now calculate the amount of the total price that represented the fee. However, StubHub's
fees are typically between 24-29% of the advertised price. *See* NAD Press Release dated January 16,
2018, available at <http://www.asrcreviews.org/nad-refers-stubhub-pricing-claims-to-ftc-for-further-review-after-advertiser-declines-to-comply-with-nad-decision-on-disclosures/>.

1 85. Even though Lee noticed the actual ticket prices were higher than the prices initially
2 advertised—and even if she had clicked on the hyperlink to look at information about StubHub’s
3 fees—since she had already gone through several steps, including selecting her seats based on a
4 specifically advertised price, creating a StubHub account by entering personal information, creating
5 a login and password, and entering payment information as she made the decision to buy, she
6 purchased the tickets at the inflated price. In other words, based on the originally advertised price,
7 Lee was swept up and excited about taking her mother to the show with tickets in a specific section
8 of the venue. If Lee had not found StubHub’s advertised price for particular seats, created an
9 account, entered payment information, and made the decision to buy, Lee would have given up on
10 the idea of taking her mother at the outset and not purchased tickets.

11 86. The pressure these events, including having selected a seat at an advertised price,
12 creating a StubHub account, and entering payment information as she made the decision to buy at
13 the lower advertised price, brought to bear on Lee’s judgment played a substantial role in leading
14 her to purchase the tickets she did, even though the price appeared higher than she expected at
15 checkout.

16 87. Because she only ever saw a total price after she had gone through several steps
17 toward purchasing her tickets, she was too far down the road and excited and wrapped up in the idea
18 of taking her mother to the show as a surprise for her birthday to forgo purchasing the tickets. At
19 that point, at that point she had invested time and energy in buying tickets from StubHub.

20 88. If Lee had known that the fees that were added to the total price, which StubHub
21 calls “service and delivery fees,” were in fact just a secret profit-generator, unrelated to the cost of
22 actually processing her ticket purchase, she would not have paid the charge if there were a viable
23 option to purchase tickets without incurring it.

24 89. StubHub’s deceptive lower advertised price was a substantial factor in causing Lee’s
25 decision to buy.

26 90. If Defendant were enjoined from waiting until the end to disclose the amount of fees
27 in a hyperlink, and Lee could instead consider the addition and amount of fees at the outset, she
28 would purchase tickets from StubHub again in the future.

CLASS ACTION ALLEGATIONS

1 91. Plaintiffs repeat and re-allege each and every fact, matter, and allegation set forth in
2 the paragraphs above and incorporate them at this point by reference as though set forth in full.

3 92. Plaintiffs bring this action on behalf of themselves and, pursuant to California Code
4 of Civil Procedure section 382 and California Civil Code section 1781, on behalf of all other
5 persons in California who purchased tickets from StubHub during the time period beginning four
6 years before the date of filing of this complaint (the “Class”). Excluded from the Class is
7 Defendant, any parent, affiliate, subsidiary entity, or entity in which Defendant has a controlling
8 interest, officers, directors, and employees of Defendant, members of its immediate families, and its
9 heirs, successors, and assigns.

10 93. The Class likely consists of at least hundreds of thousands of persons who purchased
11 tickets from StubHub in California. The membership of the Class is so numerous and dispersed
12 geographically throughout California that actual joinder of all the Class members is impracticable.

13 94. Plaintiffs’ claims are typical of the claims of the members of the Class because
14 Plaintiffs and each member of the Class were exposed to Defendant’s false and misleading
15 advertising.

16 95. Plaintiffs are proper representatives of the Class and will fairly represent and protect
17 the interests of the Class because, among other things, Plaintiffs’ interests do not conflict with the
18 interests of the class.

19 96. Plaintiffs’ attorneys are skilled and experienced in complex litigation matters,
20 including class actions.

21 97. Common questions of law and fact exist as to all members of the Class and
22 predominate over questions that impact only individual members of the Class such that there is a
23 well-defined community of interest among the Class members. Among the many questions of law
24 and fact common to the Class are the following:

25 a. Whether Defendant’s pricing practices were and are likely to mislead
26 consumers;

27 b. Whether Defendant’s representations in the ticket prices displayed on
28 StubHub’s website were and are false and misleading;

1 c. Whether Defendant knew or should have known that its pricing practices
2 were and are likely to mislead consumers;

3 d. Whether Defendant knew or should have known that the ticket prices
4 displayed on StubHub's website were and are false and/or misleading;

5 e. Whether Defendant made and continues to make false or misleading
6 statements of fact concerning amounts of price reductions;

7 f. Whether the facts Defendant failed and continued to fail to disclose in its
8 advertising were and are material;

9 g. Whether reliance on Defendant's misrepresentations and omissions is
10 presumed;

11 h. Whether Defendant's acts alleged herein were unlawful;

12 i. Whether consumers suffered and continue to suffer damage as a result of
13 Defendant's acts alleged herein;

14 j. The extent of the damage suffered by consumers as a result of Defendant's
15 acts alleged herein;

16 k. Whether Defendant's acts alleged herein were and are unfair;

17 l. Whether Defendant should be enjoined from continuing to advertise as
18 alleged herein;

19 98. In addition, the prosecution of separate actions by members of the Class would
20 create a risk of inconsistent or varying adjudications which would establish incompatible standards
21 of conduct for Defendant, while adjudications with respect to Class and Plaintiffs would, as a
22 practical matter, be dispositive of the interests of the other members of the Class.

23 99. A class action is superior to other available methods for the fair and efficient
24 adjudication of this controversy because the Class is both numerous and its membership is
25 geographically widespread across California. Furthermore, as the individual damages of any one
26 member of the Class is relatively small, the expense and burden of the individual litigation make it
27 impossible for the members of the Class to redress individually the wrongs committed against them
28

1 and the damages suffered by them. Plaintiffs know of no difficulty that should be encountered in the
2 management of this litigation that would preclude the maintenance of this suit as a class action.

3 **FIRST CAUSE OF ACTION**

4 **Violations of California Business and Professions Code section 17500**

5 **(By Plaintiffs and on Behalf of the Class)**

6 100. Plaintiffs repeat and re-allege each and every fact, matter, and allegation set forth
7 above and incorporate them at this point by reference as though set forth in full.

8 101. Defendant's acts alleged herein violate California Business and Professions Code
9 section 17500. Defendant acted knowingly, recklessly, and in conscious disregard of the true facts in
10 perpetuating its deceptive advertising scheme and causing injuries to Plaintiffs and the Class.

11 102. Plaintiffs and the Class have been misled and unfairly induced to enter into
12 transactions and to overpay for products. As a result of Defendant's false and misleading pricing
13 practices, misrepresentations, and omissions, Plaintiffs and the Class have been injured in amounts
14 not less than the "service and delivery fees" assessed on ticket purchases, which amounts have not
15 yet been ascertained, but which are believed to exceed the hundreds of thousands, or possibly
16 millions, of dollars in the aggregate. These amounts have been paid to Defendant by Plaintiffs and
17 the Class and should be restored to them.

18 **SECOND CAUSE OF ACTION**

19 **Violations of California Business and Professions Code section 17200**

20 **(By Plaintiffs and on Behalf of the Class)**

21 103. Plaintiffs repeat and re-allege each and every fact, matter, and allegation set forth
22 above and incorporate them at this point by reference as though set forth in full.

23 104. Defendant has engaged in business acts and practices that, as alleged above, constitute
24 unfair competition in violation of Business and Professions Code section 17200. Specifically,
25 Defendant's acts alleged herein are unfair and likely to deceive the general public, and Defendant's
26 acts alleged herein are unlawful in that they violate California Business and Professions Code section
27 17500 (false and misleading advertising), and California Civil Code sections 1770(a)(9), (13), and
28 (14) (CLRA), as well as other federal and state statutes and regulations.

105. As a result of Defendant's unfair, fraudulent, and unlawful business practices alleged
herein, Plaintiffs and the Class have been injured in amounts not less than the amounts they overpaid

1 for tickets due to StubHub’s “delivery and service fees,” which amounts have not yet been ascertained
2 but which are believed to exceed the hundreds of thousands, or possibly millions, of dollars in the
3 aggregate. These amounts have been paid to Defendant by Plaintiffs and the Class and should be
4 restored to them.

5 106. If Defendant is permitted to continue to engage in the unlawful, unfair, and fraudulent
6 ticket pricing practices described above, their conduct will engender further injury, expanding the
7 number of injured members of the public beyond its already large size, and will tend to render any
8 judgment at law, by itself, ineffectual. Under such circumstances, Plaintiffs and the Class have no
9 adequate remedy at law in that Defendant will continue to engage in the wrongful conduct alleged
10 herein, thus engendering a multiplicity of judicial proceedings. Plaintiffs and the Class request and
11 are entitled to injunctive relief, enjoining Defendant from continuing to engage in the unfair, unlawful,
12 and fraudulent advertising described herein.

13 **THIRD CAUSE OF ACTION**

14 **Violations of the California Consumers Legal Remedies Act**

15 **(By Plaintiffs and on Behalf of the Class)**

16 107. Plaintiffs repeat and reallege each and every fact, matter, and allegation set forth above
17 and incorporate them at this point by reference as though set forth in full.

18 108. At all relevant times, Plaintiffs were “consumers” as defined by California Civil Code
19 section 1761(d).

20 109. At all relevant times, Defendant’s tickets constituted “goods” as defined by California
21 Civil Code section 1761(a).

22 110. At all relevant times, Defendant constituted a “person” as defined by California Civil
23 Code section 1761(c).

24 111. At all relevant times, Plaintiffs and each of the class member’s purchases of
25 Defendant’s good constituted a “transaction” as defined by California Civil Code section 1761(e).

26 112. The CLRA provides that it is unlawful to: (i) advertise goods or services with the intent
27 not to sell them as advertised; and (ii) represent that a transaction confers or involves rights, remedies,
28 or obligations which it does not have or involve, or which are prohibited by law. Cal. Civ. Code §§
1770(a)(9), (14). Defendant’s acts alleged herein violate the CLRA.

1 113. On April 13, 2018, Plaintiff Wang sent the demand letter required under Cal. Civ.
2 Code § 1782 to StubHub via its counsel of record by certified mail (first class return receipt
3 requested).

4 114. Plaintiffs, on behalf of themselves and the Class, seek damages, restitution, an order
5 enjoining Defendant's unfair or deceptive acts or practices, equitable relief, and an award of
6 attorneys' fees and costs under Cal. Civ. Code § 1780(e).

7 **WHEREFORE**, Plaintiffs pray for judgment as follows:

8 **ON THE FIRST AND SECOND CAUSES OF ACTION**

9 115. For an order requiring Defendant to restore all monies that Defendant acquired
10 from Plaintiffs and the Class as a result of its false advertising and unfair, unlawful, and
11 fraudulent business acts and practices;

12 116. Interest on all such sums restored at the maximum legal rate;

13 117. For an order or orders enjoining Defendant from continuing to employ unfair
14 methods of competition and commit unfair and deceptive acts and practices alleged in this
15 complaint and any other acts and practices proven at trial;

16 118. For an award of attorneys' fees to Plaintiffs' counsel pursuant to section 1021.5
17 of the California Code of Civil Procedure;

18 119. For costs of suit incurred in this action; and

19 120. For such other and further relief as the Court may deem just and proper.

20 **ON THE THIRD CAUSE OF ACTION**

21 121. For an order awarding actual and punitive damages;

22 122. For an order or orders enjoining Defendant from continuing to employ unfair methods
23 of competition and commit unfair and deceptive acts and practices alleged in this complaint and any
24 other such acts and practices proven at trial;

25 123. For an award of costs and attorneys' fees to Plaintiffs' counsel pursuant to California
26 Civil Code section 1780(d) and California Code of Civil Procedure section 1021.5;

27 124. For such other and further relief as the Court may deem just and proper.

28 DATED: February 25, 2019

Tycko & Zavareei LLP

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