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IN THE CIRCUIT COURT FOR THE STATE OF OREGON
FOR MULTNOMAH COUNTY

CHRISTOPHER HEDGECOCK
individually and on behalf
of others similarly situated

Plaintiff

vs

VIRTUAL DINING CONCEPTS, LLC
dba **MR BEAST BURGER**

Defendant

Case No.

**CLASS ACTION
COMPLAINT FOR
EQUITABLE RELIEF**

The Unlawful Trade Practices Act
ORS 646.605 *et seq.*

Filing Fee Authority: ORS 21.135
Not Subject to Mandatory Arbitration

Jury Trial Requested

1.

INTRODUCTION

The UTPA protects Oregon consumers and small businesses against overcharging by large corporations.¹

2.

The UTPA is enforced either by the Oregon Attorney General, or by a consumer protection law firm acting as a private attorney general.²

¹ ORS 646.608(1)(s)

² ORS 646.618; ORS 646.638

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2 **3.**

3 A consumer or small business may choose to incur the risk and cost of
4 enforcing the UTPA not only for themselves but for the general public, through a
5 class action.³
6

7 **4.**

8 A law firm acting as private attorney general who prevails in a UTPA
9 enforcement action is entitled to payment of reasonable attorney fees by the
10 defendant in the case.⁴
11

12 **5.**

13 The plaintiff in this case, Mr. Hedgecock, was charged \$3.16 more than the
14 advertised price when he bought a Beast Style Burger Combo at defendant's
15 restaurant location on 432 SW Hall Street by the Portland State University campus.
16 Defendant misrepresented the hidden charge as a "tax" even though Oregon law does
17 not permit defendant to charge a sales tax on fast food.
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³ ORS 646.638(8)

⁴ ORS 646.638(8)(3)

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2 **6.**

3 **FACTUAL ALLEGATIONS**

4 This complaint's allegations are based on personal knowledge as to plaintiff's
5 own behavior and are made on information and belief as to the behavior of others.
6

7 **7.**

8 Plaintiff is an individual living in Portland, Oregon.
9

10 **8.**

11 Plaintiff is a "person" as that term is defined at ORS 646.605(4).
12

13 **9.**

14 Defendant regularly advertises and sells fast food at its restaurants in Oregon
15 in the course of its business.

16 **10.**

17 Defendant is a "person" as that term is defined at ORS 646.605(4).
18

19 **11.**

20 The fast food defendant advertised and provided to plaintiff and other class
21 members was obtained primarily for personal, family or household purposes and
22 consumption.
23

24 **12.**

25 On October 1, 2021, defendant advertised and provided fast food to plaintiff
26 at defendant's restaurant location on 432 SW Hall Street in Portland, Oregon. An
27 image of plaintiff's receipt proving his purchase is below.
28



MRBEAST BURGER (POR-005-EK01) - 432 SW HALL ST
432 SW Hall St, Portland, OR 97201

(877) 989-7333

Order # 4611354744012805

(Note: You do not need this number to pickup)

Customer Name: CHRISTOPHER HEDGECOCK
Customer Email: chedg2@gmail.com
Customer Contact Number: 15039992440

Payment Method: Credit Card Visa x-1944. Amount: \$18.95

ORDER FOR PICKUP

Order ready at 1:02 PM, TODAY (FRIDAY, 10/1/2021)

Look for the isolated black food truck in the corner of the parking lot. Approach the window and tell the team members which order you are picking up for and they will be happy to assist.

1 x Beast Style Burger Combo	(1 x \$13.99)	=	\$13.99
<ul style="list-style-type: none"> 1 x Beast Style Double Burger 1 x Soft Bun 			
<ul style="list-style-type: none"> 1 x Beast Style Fries 1 x Seasoned 1 x Coca Cola Can 	(1 x \$1.80)	=	\$1.80
SUBTOTAL	\$15.79		
TAX	\$3.16		
TOTAL	\$18.95		

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2 **13.**

3 Defendant advertised its fast food to plaintiff as costing \$15.79. After plaintiff
4 paid for the fast food and read his receipt, plaintiff discovered that defendant's price
5 was falsely advertised because defendant added and collected a hidden \$3.16 charge
6 on the fast food that was omitted from the advertised price of the fast food to plaintiff,
7 and defendant misrepresented the hidden charge as a "tax" even though Oregon law
8 does not permit defendant to charge a sales tax on fast food, causing plaintiff
9 ascertainable loss of the \$3.16 overcharge that was collected from him.
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2 **14.**

3 **CAUSES OF ACTION**

4 **Claim One – Unlawful Trade Practices**

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6 This claim is not a request for damages at this time, only equitable and
7 injunctive relief. Plaintiff and the other class members intend to request damages in
8 an amended complaint, only if defendant refuses to provide the identity and contact
9 information for each putative class member, notify each member that upon request
10 defendant will make the approximate compensation and remedy the alleged wrong,
11 and cease from engaging in the practices alleged to be violative of the rights of the
12 members, according to ORCP 32 I.
13

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15 **15.**

16 As alleged in this complaint, in the course of its business, defendant made
17 false or misleading representations and omissions of fact concerning plaintiff and
18 other class members' cost for its fast food by falsely representing to plaintiff and
19 other class members, on the prices it advertised, that its fast food could be purchased
20 for a certain price, when in fact defendant knew that at its registers it would instead
21 charge plaintiff and other class members a mandatory hidden charge, mislabeled as
22 a "tax", in addition to the advertised price of its fast food. This behavior violates ORS
23 646.608(1).
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2 **16.**

3 Under ORS 646.636 and ORS 646.638 and the Court's inherent power,
4 plaintiff respectfully requests an order prohibiting defendant from continuing the
5 unlawful trade practices alleged in this complaint, an order requiring defendant to
6 provide an accounting of the profits it collected from the unlawful trade practices
7 alleged in this complaint, attorney fees, costs, disbursements, and an order requiring
8 defendant to preserve all documents and information (and electronically stored
9 information) relevant to a claim or defense in this case.
10
11

12 **17.**

13 **Claim Two – Unjust Enrichment**

14 This claim is not a request for damages at this time, only equitable and
15 injunctive relief. Plaintiff and the other class members intend to request damages in
16 an amended complaint, only if defendant refuses to provide the identity and contact
17 information for each putative class member, notify each member that upon request
18 defendant will make the approximate compensation and remedy the alleged wrong,
19 and cease from engaging in the practices alleged to be violative of the rights of the
20 members, according to ORCP 32 I.
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2 **18.**

3 As alleged in this complaint, defendant operated a common and intentional
4 scheme to conceal the overcharges from the advertised costs of the fast food it sold
5 to plaintiff and the class members when it knew or should have known that this
6 omission was in violation of Oregon law and it knew that it would charge plaintiff
7 and the class members the overcharges at its registers despite this material
8 omission. Defendant obtained a monetary benefit as increased profits through this
9 material omission and misrepresentation by collecting undisclosed surcharges from
10 plaintiff and the putative class members, entitling plaintiff and the putative class
11 members to restitution in the amount of the overcharges defendant unjustly
12 collected from them. *See, e.g.,* Restatement (Third) of Restitution and Unjust
13 Enrichment §§ 1, 13, 40, 41, 44 (2011).
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17 **19.**

18 **REQUEST FOR JURY TRIAL**

19 Plaintiff respectfully requests a trial by a jury.
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2 **20.**

3 **PRAYER FOR RELIEF**

4 Plaintiff respectfully requests relief against defendant as sought above, and
5 any other relief the Court may deem appropriate, and an order appointing interim
6 lead class counsel, and an order certifying this case as a class action.
7

8
9 October 7, 2021

10 **RESPECTFULLY FILED,**

11 /s/ Michael Fuller

12 **Michael Fuller, OSB No. 09357**

13 Lead Trial Attorney for Plaintiff

14 OlsenDaines

15 US Bancorp Tower

16 111 SW 5th Ave., Suite 3150

17 Portland, Oregon 97204

18 michael@underdoglawyer.com

19 Direct 503-222-2000

20 **Kelly Donovan Jones, OSB No. 09357**

21 Of Attorneys for Plaintiff

22 Law Office of Kelly Jones

23 819 SE Morrison Street, Ste 255

24 Portland, Oregon 97214

25 Phone 503-847-4329
26
27
28

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2 **CERTIFICATE OF SERVICE**

3 I certify that I cause this document to be served on:
4

5 **State of Oregon**
6 **c/o Oregon Department of Justice**
7 **1162 Court St. NE**
8 **Salem, Oregon 97301-4096**

9 October 7, 2021

10 /s/ Michael Fuller
11 **Michael Fuller, OSB No. 09357**
12 Lead Trial Attorney for Plaintiff
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