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

3.

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

4.

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

5.

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

[3] ORS 646.638(8)
[4] ORS 646.638(8)(3)

6.

FACTUAL ALLEGATIONS

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

7.

Plaintiff is an individual living in Portland, Oregon.

8.

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

9.

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

10.

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

11.

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

12.

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

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
• 1 x Beast Style Double Burger			
• 1 x Soft Bun			
• 1 x Beast Style Fries	(1 x $1.80)	=	$1.80
• 1 x Seasoned			
• 1 x Coca Cola Can			

SUBTOTAL	$15.79
TAX	$3.16
TOTAL	**$18.95**

13.

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

14.

CAUSES OF ACTION

Claim One – Unlawful Trade Practices

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

15.

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

16.

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

17.

Claim Two – Unjust Enrichment

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

18.

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

19.

REQUEST FOR JURY TRIAL

Plaintiff respectfully requests a trial by a jury.

20.

PRAYER FOR RELIEF

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

October 7, 2021

RESPECTFULLY FILED,

/s/ Michael Fuller
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CERTIFICATE OF SERVICE

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

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October 7, 2021

/s/ Michael Fuller

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