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Junk Fees: Consumers Beware

By Emily Madoff

Junk fees are those fees such as “resort,” “convenience” and “service fees,” among others, that companies obscure in their advertisements, web sites and agreements and which take consumers by surprise when they have to pay them. False and misleading statements to consumers by companies are unlawful, regardless of an intent to deceive. In December 2024, the Federal Trade Commission finalized its Junk Fees Rule, targeting the live-event ticketing, hotel and short-term rental markets.   While the proposed new rule does not eliminate these fees, it does require the up-front disclosure of the total price to be charged, which price includes junk fees. Set to take effect in April 2025, the rule faces potential invalidation under the Congressional Review Act. While the Trump administration and the FTC chair Andrew Ferguson (who was the sole dissenter of the final FTC Junk Fee Rule) may influence enactment and enforcement, the rule’s narrow scope and public support could ensure its survival. Regardless of the future of the FTC’s Junk Fee Rule, it is important for consumers to be aware of the protections afforded them under present laws and the pitfalls of which to be wary.

Notwithstanding the survival of the Junk Fee Rule, all states have consumer fraud and deceptive practices laws addressing these bait-and-switch and other deceptive pricing tactics that disguise a consumer’s final price. For example, in the class action *Vianu et al v. AT&T Mobility LLC*[1], plaintiffs claimed AT&T prominently advertised a flat monthly rate for its wireless service plans, but covertly increased the price by adding a so-called “Administrative Fee” to the advertised price. The Administrative Fee was not disclosed to consumers before or when they signed up, and the first time it was mentioned by AT&T was on the customers’ monthly billing statements they began receiving only after they signed up for, and were committed to, the service. AT&T also buried the Administrative Fee in the taxes section of the bill, thereby further obscuring its existence. AT&T settled the case for damages of $14 million, or approximately $20 per person.

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1 No. 3:19-cv-03602 (N.D. Cal. 2019)

In the class action *Cox, et al v. Spirit Airlines, Inc.*[2], plaintiffs alleged that Spirit knew third-party agents, such as Expedia, Travelocity, Priceline and others, presented consumers with contracts for air travel without informing them that, when they arrived at the gate, they would be required to pay exorbitant fees for carry-on items or not board the plane. Plaintiffs alleged Spirit intentionally hid these fees from consumers during the booking process in order fraudulently to induce them to purchase tickets. Specifically, plaintiffs alleged that "[S]pirit's fees are not conspicuously shown on its website or the websites of third-party vendors, and consumers are often unaware of Spirit's large and plentiful fees until they purchase the ticket that initially appeared attractive." The case settled with Spirit agreeing to pay $8.25 million to the class, and members of the class had returned to them as much as 75 percent of the fees they had paid.

In the class action *Aseltine v. Bank of America*[3], Plaintiff complained Bank of America hid the fact it charged a $15.00 Incoming Wire Transfer Fee to certain of its personal accountholders when they received funds to their accounts by wire. The complaint alleged that the bank's Account Documents promised to disclose all fees, and the law requires such disclosure, but nevertheless, none of the bank's Account Documents ever disclosed the existence or amount of Incoming Wire Transfer Fees. The complaint stated "…the fees themselves are prototypical "junk" fees: unavoidable and hidden, tacked on after the opportunity for any meaningful consumer choice has passed, deducted directly from consumer accounts without consent or notice." The case settled for an $8 million fund to be paid to individuals who paid these transfer fees and Bank of America agreed to stop charging these fees.

"Drip pricing" is a deceptive sales tactic in which companies advertise only part of a total cost and only reveal the other charges (the junk fees) as the consumer goes through the purchasing process. The goal of the drip pricing is to get the customer to commit to the purchase before revealing the full price, so the advertised good or service is not actually attainable for the quoted price. A precursor to the Junk Fee Rule, several hotel chains, including Marriott, Hilton, Choice, Omni and Hyatt, and many on-line travel agencies, have been sued for drip pricing by various attorneys general. The common complaint in these lawsuits is that the hotels advertise their daily room rates on their own websites and on websites operated by online travel agencies, such as Priceline and Expedia. Although these hotels all charge additional mandatory fees referred to by names such as "resort fees," or "amenity fees," the hotels do not include these daily, mandatory fees in their advertised room rates. To make matter worse, the hotels do not always include these fees when consumers book their rooms, instead adding them at the time of payment in the section of the bill used for taxes, thereby further misleading consumers into believing the additional fees were government imposed. Several of the hotel chains have settled the cases, agreeing prominently to disclose the total prices to be charged.

In another example of the FTC's broader regulatory agenda to enhance transparency in pricing across various industries and services, In *FTC and People of the State of Illinois v. Grubhub Inc. and Grubhub Holdings Inc.*[4], the FTC accused Grubhub of advertising low or no delivery fees while hiding significant "service fees" and "small order fees" that increased the total cost of delivery by up to double or triple the advertised amount. As a result of these and other violations, Grubhub agreed to pay $24.8 million to the FTC and $200,000 to Illinois. They also agreed to (a) clearly disclose all fees associated with orders, (b) provide simple cancellation mechanisms for subscription services, and (c) implement policies regarding account blocks and access to gift card funds.

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2 No. 1:17-cv-05172 (E.D.N.Y. 2017)
3 No. 3:23-cv-0235 (N.C. 2023)
4 No. 1:24-cv-12923 (N.D. Ill. 2024)

Although titled the “Junk Fee Rule,” this rule only addresses live-event ticketing, hotels and short-term rentals, yet the junk fee problems arise across many different industries and take many different forms. The Consumer Financial Protection Bureau identified the most common forms of junk fees to be fees for overdraft or nonsufficient funds, late fees, convenience fees and prepaid card fees. Additionally, the CFPB reported that there are unlawful junk fees in several loan servicing markets, including auto loans, mortgages, student loans and payday loans. As an example of a case falling outside of the Junk Fees Rule, in January 2025, the FTC and the State of Colorado sued Greystar Real Estate Partners, the nation’s largest multi-family rental property manager, for deceiving customers about monthly rental costs by tacking on numerous mandatory fees on top of advertised prices, fees related to things like pest control, trash services and performing tenant background checks. According to the complaint these hidden fees have cost consumers living in the Greystar properties hundreds of millions of dollars since at least 2019, and consumers often have not discovered these fees until after they have signed a lease or moved in.

Junk fees abound. Consumers should be vigilant in checking for junk fees before committing to a payment for, in truth, just about anything. And, consumers who are deceived should know there may be remedies available to them.

About the Author

Emily Madoff is the Managing Partner of Wolf Popper LLP.

Throughout her career, Emily has used the law to drive socio-political change, often protecting the public from consumer fraud. Emily recently focused on the rampant problems with surprise medical bills; she was instrumental in developing the Firm’s cases in this area, several of which have settled with full recovery for the class. Emily presently is concentrating on using the law to expedite the benefits of diversity and inclusion.

A commercial attorney, Emily was mentored by Marty Popper, eventually inheriting his practice. As such, Emily has represented several missions to the United Nations and various governments and government officials. She is proud to have represented personally some early social justice luminaries, such as Freda Diamond and Ring Lardner Jr. To this day, Emily represents the Georgian artist, Zurab Tsereteli, an internationally-acclaimed monumentalist and UNESCO Goodwill Ambassador, whose works are installed worldwide, including “Good Defeats Evil,” which statue sits on the front grounds of the United Nations headquarters in New York City. The Tsereteli family owns the largest winery in Georgia, producing Tsereteli Wine.

Emily has published many articles about the law, including for the New York Law Journal, an article explaining litigation funding (Analyzing the Fundamentals of Litigation Funding, August 19, 2013) and one about arbitration clauses in consumer contracts (Mandatory Arbitration Clauses in Consumer Contracts, July 5, 2016) and for Latin Lawyer, an article about the securities litigation spawned in the United States as a result of the Petrobras scandal in Brazil (Bringing 'big oil' to the Big Apple, March 2015), for a few examples.

Ms. Madoff is a graduate of Connecticut College (B.A., 1973), and Northeastern University School of Law (J.D., 1979). She is admitted to the Bars of the State of New York, the Commonwealth of Massachusetts and the United States District Court for the Southern District of New York.

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