

1 **BURSOR & FISHER, P.A.**  
L. Timothy Fisher (State Bar No. 191626)  
2 1990 North California Blvd., Suite 940  
Walnut Creek, CA 94596  
3 Telephone: (925) 300-4455  
Facsimile: (925) 407-2700  
4 E-mail: ltfisher@bursor.com

5 **BURSOR & FISHER, P.A.**  
Joseph I. Marchese (*pro hac vice* forthcoming)  
6 Alec M. Leslie (*pro hac vice* forthcoming)  
New York, NY 10019  
7 Telephone: (646) 837-7150  
Facsimile: (212) 989-9163  
8 E-Mail: jmarchese@bursor.com  
aleslie@bursor.com

9  
10 **GUCOVSKI ROZENSHTEYN, PLLC.**  
Adrian Gucovski (*pro hac vice* forthcoming)  
11 630 Fifth Avenue, Suite 2000  
New York, NY 10111  
12 Telephone: (212) 884-4230  
Facsimile: (212) 884-4230  
13 E-Mail: adrian@gr-firm.com

14 *Attorneys for Plaintiff*

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

17  
18 AMANDA MCCLURE, individually and on  
19 behalf of all other persons similarly situated,

20 Plaintiff,

21 v.

22  
23 GROCERY DELIVERY E-SERVICES USA  
INC. D/B/A HELLOFRESH,

24 Defendant.  
25  
26  
27  
28

Case No.:

**CLASS ACTION COMPLAINT**

**JURY TRIAL DEMANDED**

1 Plaintiff Amanda McClure (“Plaintiff”) brings this action individually and on behalf of all  
2 others similarly situated against Defendant Grocery Delivery E-Services Usa Inc., d/b/a HelloFresh  
3 (“HelloFresh” or “Defendant”). Plaintiff makes the following allegations pursuant to the  
4 investigation of her counsel and based upon information and belief, except as to allegations  
5 specifically pertaining to herself and her counsel, which are based on personal knowledge.

### 6 INTRODUCTION

7 1. This is a putative class action lawsuit against Defendant for engaging in an illegal  
8 “automatic renewal” scheme with respect to its subscription sports broadcasting and streaming  
9 services across its network sites (collectively, the “HelloFresh Subscriptions,” enumerated below)  
10 through its website at <https://www.HelloFresh.com> (the “HelloFresh Website”). Defendant is an  
11 international food delivery company that, among other activities, delivers pre-portioned ingredients  
12 and recipes as an alternative to traditional grocery shopping. Relevant to Plaintiff’s allegations,  
13 when consumers sign up for the HelloFresh Subscriptions through the HelloFresh Website,  
14 Defendant actually enrolls consumers in a program that automatically renews customers’  
15 HelloFresh Subscriptions from week-to-week and results in weekly charges to the consumer’s  
16 credit card, debit card, or third-party payment account (collectively, “Payment Method”). In doing  
17 so, Defendant fails to provide the requisite disclosures and authorizations required to be made to  
18 and obtained from California consumers under California’s Automatic Renewal Law (“ARL”),  
19 Cal. Bus. & Prof. Code §§ 17600, *et seq.*

20 2. Through the HelloFresh Website, Defendant markets, advertises, and sells to  
21 consumers in California and throughout the United States paid memberships to the HelloFresh  
22 Subscriptions, which include food delivery kits based on its customers’ food preferences and  
23 number of servings per week (collectively, the “HelloFresh Subscriptions”). To sign up for one of  
24 Defendant’s HelloFresh Subscriptions through the HelloFresh Website, customers must provide  
25 Defendant with their billing information and Defendant then automatically charges customers’  
26 Payment Method as payments become due, typically on a weekly basis. Defendant is able to  
27 unilaterally charge its customers’ renewal fees without their consent, as Defendant is in possession  
28 of its customers’ billing information. Thus, Defendant has made the deliberate decision to charge

1 Plaintiff and other similarly situated customers on a weekly basis, absent their consent under the  
2 ARL, relying on consumer confusion and inertia to retain customers, combat consumer churn, and  
3 bolster its revenues.

4 3. Pursuant to the ARL, online retailers who offer automatically renewing  
5 subscriptions to California consumers must: (a) obtain affirmative consent prior to the consumer's  
6 purchase; (b) provide the complete auto-renewal terms in a clear and conspicuous manner and in  
7 visual proximity to the request for consent prior to the purchase; and (c) provide an  
8 acknowledgement identifying an easy and efficient mechanism for consumers to cancel their  
9 subscriptions. As will be discussed below, the enrollment process for the HelloFresh Subscriptions  
10 through the HelloFresh Website uniformly violates each of the core requirements of the ARL.

11 4. Specifically, Defendant systematically violates the ARL by: (i) failing to present the  
12 automatic renewal offer terms in a clear and conspicuous manner and in visual proximity to the  
13 request for consent to the offer before the subscription or purchasing agreement is fulfilled, in  
14 violation of Section 17602(a)(1); (ii) charging consumers' Payment Method without first obtaining  
15 their affirmative consent to the agreement containing the automatic renewal offer terms, in  
16 violation of Section 17602(a)(2); and (iii) failing to provide an acknowledgment that includes the  
17 automatic renewal offer terms, cancellation policy, and information regarding how to cancel in a  
18 manner that is capable of being retained by the consumer, in direct violation of Sections  
19 17602(a)(3) and 17602(b). Cal. Bus. & Prof. Code §§ 17602(a)(1), (a)(2), (a)(3), (b). As a result,  
20 the HelloFresh Subscriptions, which include food delivery kits granted to Plaintiff and the Class  
21 under the automatic renewal of continuous service agreements are deemed to be "unconditional  
22 gifts" under the ARL. Cal. Bus. & Prof. Code § 17603.

23 5. For the foregoing reasons, Plaintiff brings this action individually and on behalf of  
24 all California purchasers of any of Defendant's HelloFresh Subscriptions offerings who, within the  
25 applicable statute of limitations period up to and including the date of judgment in this action,  
26 incurred unauthorized fees for the renewal of their HelloFresh Subscriptions. Based on Defendant's  
27 unlawful conduct, Plaintiff seeks damages, restitution, declaratory relief, injunctive relief, and  
28 reasonable attorneys' fees and costs, for: (i) violation of California's Unfair Competition Law

1 (“UCL”), Cal. Bus. & Prof. Code §§ 17200, et seq.; (ii) violation of California’s False Advertising  
2 Law (“FAL”), Cal. Bus. & Prof. Code §§ 17500, et seq.; (iii) violation of California’s Consumers  
3 Legal Remedies Act (“CLRA”), Cal. Civ. Code §§ 1750, et seq.; (iv) conversion; and (iv) unjust  
4 enrichment/restitution.

### 5 THE PARTIES

6 6. Plaintiff Amanda McClure is a citizen of California, residing in Marina, California.  
7 On or around March 11, 2022, Ms. McClure purchased a HelloFresh Subscription from  
8 Defendant’s Website while residing in California. During the enrollment process, but before  
9 finally consenting to Defendant’s subscription offering, Ms. McClure provided her Payment  
10 Method information directly to Defendant. At the time that Ms. McClure enrolled in her  
11 HelloFresh Subscription program, Defendant did not disclose to Ms. McClure all of the required  
12 automatic renewal offer terms associated with the subscription program or obtain Ms. McClure’s  
13 affirmative consent to those terms. Further, after Ms. McClure completed her initial order (which  
14 was free after applying the Defendant’s promotional code), Defendant sent Ms. McClure an email  
15 confirmation and receipt for her purchase of and enrollment in the HelloFresh Subscription (the  
16 “Acknowledgment Email”). However, the Acknowledgment Email, too, failed to provide Ms.  
17 McClure with the complete automatic renewal terms that applied to Defendant’s offer, a  
18 description of Defendant’s full cancellation policy, or information regarding how to cancel Ms.  
19 McClure’s HelloFresh Subscription in a manner capable of being retained by her. Ms. McClure did  
20 not receive any other acknowledgement that contained the required information. As a result, Ms.  
21 McClure was not placed on notice of several material terms associated with her HelloFresh  
22 Subscription. In particular, Ms. McClure was not made aware of the recurring price to be charged  
23 upon renewal, the length of the renewal term, when the first charge would occur, or the complete  
24 cancellation policy associated with her HelloFresh Subscription: the most crucial aspects of which  
25 were missing from the Checkout Page and the Acknowledgment Email. Nevertheless, on  
26 Wednesday, March 23, 2022, Defendant automatically renewed Ms. McClure’s HelloFresh  
27 Subscription and charged Ms. McClure’s Payment Method approximately \$69.93. Defendant  
28 charged Mr. McClure’s Payment Method again on March 30, 2022 for \$69.93. Promptly after

1 learning of Defendant's deceptive recurring charges, on or around Tuesday, April 5, 2022, Ms.  
2 McClure canceled her HelloFresh Subscription via Defendant's Website in order to avoid incurring  
3 any additional future charges. Nevertheless, Defendant imposed a charge of 69.93 the day after Ms.  
4 McClure's cancelation. Defendant's missing and/or incomplete disclosures on the Checkout Page  
5 and in the Acknowledgment Email for the HelloFresh Subscription, its failure to obtain Ms.  
6 McClure's affirmative consent to the offer terms associated with the HelloFresh Subscription  
7 before charging her Payment Method on a recurring basis, runs contrary to the ARL, which deems  
8 products provided in violation of the statute to be a gift to consumers. *See* Cal. Bus. & Prof. Code  
9 § 17603. Had Defendant complied with the ARL, Ms. McClure would have been able to read and  
10 review the pertinent automatic renewal offer terms prior to purchase, and she would not have  
11 subscribed to the HelloFresh Subscription at all or on the same terms or she would have cancelled  
12 her HelloFresh Subscription earlier, *i.e.*, prior to the two charges following her free promotional  
13 delivery. As a direct result of Defendant's violations of the ARL, Ms. McClure suffered, and  
14 continues to suffer, economic injury.

15 7. Defendant Grocery Delivery E-Services Usa Inc., d/b/a HelloFresh ("HelloFresh" or  
16 "Defendant") is a Delaware corporation with its principal place of business at 28 Liberty  
17 Street, New York, New York 10005. Defendant is an international food delivery company that  
18 markets, sells, and delivers meal kits to consumers throughout California and nationwide.  
19 Defendant is also responsible for the promotion, advertisement, and/or marketing of the  
20 automatically renewing HelloFresh Subscriptions, and it owns and operates the HelloFresh  
21 Website, where it markets and sells its HelloFresh Subscriptions. Defendant sells HelloFresh  
22 Subscriptions in California and has done business throughout New York, and throughout the  
23 United States, at all times during the Class Period. Defendant also made automatic renewal or  
24 continuous service offers to consumers in California and New York, and throughout the United  
25 States, via the HelloFresh Website during the Class Periods.

26 8. Plaintiff reserves the right to amend this Complaint to add different or additional  
27 defendants, including without limitation any officer, director, employee, supplier, or distributor of  
28

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