

SUMMONS (CITACION JUDICIAL)

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

NOTICE TO DEFENDANT: (AVISO AL DEMANDADO):

MAPLEBEAR INC. d/b/a INSTACART, and DOES 1-10 Inclusive,

YOU ARE BEING SUED BY PLAINTIFF: (LO ESTÁ DEMANDANDO EL DEMANDANTE):

James Andrews, individually and on behalf of all others similarly situated,

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case.

¡AVISO! Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:

(El nombre y dirección de la corte es): Civic Center Courthouse

400 McAllister St.

San Francisco, CA 94102-4514

CASE NUMBER:
(Número del Caso):

CGC-21-590201

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

Todd M. Friedman, Law Offices of Todd M. Friedman, PC,

21550 Oxnard St., Ste. 780, Woodland Hills, CA 91367, 323-306-4234

DATE:

MAR 17 2021

Clerk of the Court

Clerk, by
(Secretario)

Deputy
(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

ANGELICA SUNGA



NOTICE TO THE PERSON SERVED: You are served

1. ☐ as an individual defendant.
2. ☐ as the person sued under the fictitious name of (specify):
3. ☐ on behalf of (specify):

under: <input type="checkbox"/> CCP 416.10 (corporation)	<input type="checkbox"/> CCP 416.60 (minor)
<input type="checkbox"/> CCP 416.20 (defunct corporation)	<input type="checkbox"/> CCP 416.70 (conservatee)
<input type="checkbox"/> CCP 416.40 (association or partnership)	<input type="checkbox"/> CCP 416.90 (authorized person)
<input type="checkbox"/> other (specify):	
4. ☐ by personal delivery on (date):

Todd M. Friedman (SBN 216752)
Adrian R. Bacon (SBN 280332)
Meghan E. George (SBN 274525)
Thomas E. Wheeler (SBN 308789)
LAW OFFICES OF TODD M. FRIEDMAN, P.C.
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twheeler@toddfllaw.com
Attorneys for Plaintiff, James Andrews

FILED
SUPERIOR COURT
COUNTY OF SAN FRANCISCO

MAR 17 2021

CLERK OF THE COURT
Angelica Sunga
ANGELICA SUNGA Deputy Clerk

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN FRANCISCO
UNLIMITED JURISDICTION

James Andrews, individually and on behalf
of all others similarly situated,

Plaintiffs,

vs.

MAPLEBEAR INC. d/b/a INSTACART,
and DOES 1-10 Inclusive,

Defendant.

Case No. **CGC-21-590201**

CLASS ACTION COMPLAINT

- (1) Violation of Unfair Competition Law
(Cal. Business & Professions Code
§§ 17200 *et seq.*)
- (2) Violation of False Advertising Law (Cal.
Business & Professions Code §§ 17500 *et*
seq.)
- (3) Violation of Consumer Legal Remedies
Act (Cal. Civ. Code §§ 1750 *et seq.*)

Jury Trial Demanded



1 Plaintiff James Andrews ("Plaintiff"), on behalf of himself and all others similarly
2 situated, alleges as follows:

3 **NATURE OF THE ACTION & COMMON ALLEGATIONS OF FACT**

4 1. Plaintiff brings this class action Complaint against Defendant MAPLEBEAR
5 INC. d/b/a INSTACART (hereinafter "Defendant" or "Instacart") to stop Defendant's practice
6 of overcharging its customers, such as Plaintiff, when it makes substitutions such as for lower
7 weight produce or for cheaper substitute products ("the Substitute Goods"). Even though
8 Defendant makes such substitutions and thus pays a lower price for the substituted goods, it still
9 charges Plaintiff and other customers the full price of the unsubstituted products, thus pocketing
10 the difference in price. Plaintiff seeks to obtain redress for a California class of consumers
11 ("Class Members") who were overcharged for the Substitute Goods, within the applicable
12 statute of limitations period by Defendant.

13 2. Defendant represented to Class Members the prices for certain products to be
14 sold by Defendant through its app, the Instacart App.

15 3. Plaintiff and others similarly situated viewed and relied on these representations
16 on Defendant's App.

17 4. These representations were misrepresentations in instances where Defendant
18 would make substitutions for cheaper products but still charge Plaintiff and Class Members for
19 the more expensive original goods which were not delivered.

20 5. Defendant's misrepresentations to Plaintiff and others similarly situated caused
21 them to purchase goods from Defendant at a certain price and resulted in them overpaying
22 Defendant when Defendant substitute the goods without adjusting the pricing.

23 6. Defendant took advantage of Plaintiff and similarly situated consumers unfairly
24 and unlawfully.

25 7. Consumers enter into agreements based on the goods and services offered and
26 features of those goods and services such as the price.

27 8. Consumers rely on the representations of service providers in order to know
28

1 which goods and services to purchase.

2 9. Defendant is a seller that is engaged in the selling, marketing, and supplying of
3 product delivery through its Instacart App.

4 10. Defendant profits from the sale of the Substitute Goods because it retains the
5 difference in price between the original good and the cheaper Substitute Good. If Defendant
6 had informed consumers of this policy, many of the consumers would not have agreed to
7 purchase products which were not delivered and for which they were charged despite cheaper
8 substitutes being provided instead.

9 11. Consumers are unable to ascertain that Defendant will engage in this Substitute
10 Goods practice, based on the representations of Defendant.

11 12. The aforementioned written representations are objectively false and constitute
12 a false advertisement under Cal. Bus. & Prof. Code §§ 17500 et. seq., and an unlawful, unfair,
13 or deceptive business practices under Cal. Bus. & Prof. Code §§ 17200 et. seq.

14 13. Defendant's violations of the law include, but are not limited to, the false
15 advertising, marketing, representations, and sale of the overpriced Substitute Goods to
16 consumers statewide.

17 14. On behalf of the Class, Plaintiff seeks an injunction requiring Defendant to cease
18 advertising and selling the Substitute Goods at unjustified premiums and an award of damages
19 to the Class Members, together with costs and reasonable attorneys' fees.

20 JURISDICTION AND VENUE

21 15. This Court has jurisdiction over the alleged violations of the California Business
22 and Professions Code §§ 17200, et seq., California Business and Professions Code §§ 17500 et.
23 seq., and the California Consumer Legal Remedies Act, Cal. Civ. Code §§ 1750 et seq.

24 16. This case is subject to the jurisdiction of this Court pursuant to California
25 *Business and Professions Code*, and the California *Code of Civil Procedure*. Defendant does
26 business throughout the State of California. The unlawful acts alleged herein have a direct effect
27 on Plaintiff and other consumers similarly situated within the State of California. Plaintiff and
28

1 the Class Members have suffered damages and will continue to suffer the same harm as the
2 Plaintiff as a result of Defendant's wrongful conduct unless the relief requested herein is
3 granted.

4 17. This matter is properly venued in the County of San Francisco in that Defendant's
5 headquarters is in San Francisco, California.

6 THE PARTIES

7 18. Plaintiff James Andrews is a citizen and resident of the State of California,
8 County of Riverside.

9 19. Defendant MAPLEBEAR INC. d/b/a INSTACART is a Delaware Corporation
10 with its headquarters in San Francisco, California that is licensed to do business in the State of
11 California and that does business in California, including in the County of San Francisco.

12 20. Plaintiff is informed and believes, and thereon alleges, that each and all of the
13 acts and omissions alleged herein were performed by, or is attributable to, Defendants and/or
14 its employees, agents, and/or third parties acting on its behalf, each acting as the agent for the
15 other, with legal authority to act on the other's behalf. The acts of any and all of Defendants'
16 employees, agents, and/or third parties acting on its behalf, were in accordance with, and
17 represent, the official policy of Defendants.

18 21. Plaintiff is informed and believes, and thereon alleges, that said Defendants are
19 in some manner intentionally, negligently, or otherwise responsible for the acts, omissions,
20 occurrences, and transactions of each and all its employees, agents, and/or third parties acting
21 on its behalf, in proximately causing the damages herein alleged.

22 22. At all relevant times, Defendants ratified each and every act or omission
23 complained of herein. At all relevant times, Defendants aided and abetted the acts and
24 omissions as alleged herein.

25 PLAINTIFF'S FACTS

26 23. On or about April 2020, Plaintiff made multiple purchases through Defendant for
27 the purchase and delivery of items from his local Stater Bros.
28

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