

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK**

CHRISTIAN WILLIAMS, individually and on
behalf of all others similarly situated,

Plaintiff,

v.

INTUIT INC.,

Defendant.

Civil Action No.:

CLASS ACTION COMPLAINT

JURY TRIAL DEMANDED

Christian Williams (“Plaintiff”), on behalf of himself and all others similarly situated, on personal knowledge as to the facts concerning himself, on information and belief as to all other matters, and based on the investigation of counsel and public statements, brings this class action against Intuit Inc. (“Intuit”) and alleges as follows:

NATURE OF THE ACTION

1. This action concerns Intuit’s campaign to intentionally divert and deceive lower income taxpayers who are eligible to receive free tax preparation and filing services under the United States Internal Revenue Service’s (“IRS”) Free File program (“Free File Program”) to its paid TurboTax products.

2. TurboTax is the market leading tax preparation software, owned and manufactured by Intuit, that is utilized to file more than 36 million tax returns for taxpayers every year.

3. Pursuant to an agreement with the IRS, TurboTax and other tax preparation providers are required to cumulatively offer 70% of U.S. taxpayers based on Adjusted Gross Income (“AGI”) (currently anyone with an AGI of \$66,000 or less) the option to file their taxes for free.

4. The agreement was specifically designed so that the IRS would not need to create its own free online filing system. According to the government, the goal of the Free File Program was to implement the IRS's public policy of "extending the benefits of online federal tax preparation and electronic filing to economically disadvantaged and underserved populations at no cost to either the individual user or to the public treasury."

5. Intuit, however, has long been luring customers into paying for a service that it promised the government and consumers it would give away for free.

6. With knowledge that a large number of its users (the lowest earning 70% percent of American taxpayers) qualify to file their taxes online for free using TurboTax, Intuit violated its agreement with the IRS and defrauded Plaintiff and members of the Class (defined below) by actively concealing public access to the IRS's Free File Program and intentionally diverting qualified taxpayers away from its "free filing" program in favor of its paid product offerings.

7. Only a small percentage of American taxpayers file their taxes for free. For example, in fiscal year 2018, fewer than 2.5 million of the 100 million eligible taxpayers (less than 2.5%) participated in the Free File Program.

8. Intuit employed deceptive and misleading advertising to fraudulently induce lower-income taxpayers into purchasing TurboTax products when they were eligible for free services pursuant to Intuit's agreement with the IRS. Indeed, Intuit marketed its paid offerings under the product name, "Free Guaranteed"—so that qualified taxpayers believed they were filing their taxes pursuant to the Free File Program, only to be hit with unexpected charges after they already spent hours entering information and preparing to file.

9. Because Intuit's actions and omissions violate well established legal and statutory duties that they owed to Plaintiff and all other similarly situated U.S. consumers, those

individuals were forced to suffer the consequences. As a result of this scheme, Intuit generated millions of dollars of ill-gotten gains from persons who can least afford it.

10. Plaintiff brings this class action on behalf of himself and all similarly situated consumers for actual and statutory damages, as well as punitive damages and equitable relief to fully redress the vast harm Intuit's wrongful acts have unleashed on consumers.

JURISDICTION AND VENUE

11. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1332(d) because there are more than 100 class members and the aggregate amount in controversy exceeds \$5,000,000.00, exclusive of interest, fees, and costs, and at least one Class member is a citizen of a state different from Defendant.

12. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391 because Defendant does business throughout this District and because Plaintiff resides in this District and purchased and used the TurboTax software in this District.

13. All conditions precedent necessary for filing this Complaint have been satisfied and/or such conditions have been waived by the conduct of the Defendant.

PARTIES

14. Plaintiff Christian Williams is a resident of Far Rockaway, New York, and is a citizen of the state of New York who paid to use the TurboTax software to file his tax returns, despite qualifying for the IRS free filing program. The TurboTax software advertised that Mr. Williams would be able to file his federal income tax for free. Further, Intuit did not disclose to Mr. Williams that he was entitled to have his taxes prepared for free and that the edition of TurboTax he used was the paid, rather than the free version. Mr. Williams relied on these misrepresentations and omissions in using TurboTax. However, after he inputted his information into the software, Mr. Williams was charged approximately \$223.94 to file his taxes through

TurboTax during the calendar years of 2016-2018. Had Intuit not misrepresented the nature of its tax preparation and e-filing services and informed Plaintiff Williams of its intent to assess fees, he would not have navigated to the TurboTax website or input his information. Had Intuit disclosed that Mr. Williams qualified to have his taxes filed for free, he would have prepared his taxes using the truly free TurboTax software or the software of another member of the Free File Alliance rather than the Turbotax paid software.

15. Defendant's misrepresentations and omissions also fraudulently induced Plaintiff Williams to assent to the TurboTax Terms and Conditions, specifically the agreement to arbitrate. Had Mr. Williams known the truth about Defendant's conduct, he would not have agreed to the arbitration clause, which was an adhesive term which Defendant required Mr. Williams to assent to even access the TurboTax software. Use of the adhesive arbitration clause was part in parcel of Defendant's fraudulent scheme. Defendant lured consumers to its website with advertisements of "free," when the actual free product could not even be accessed from the main TurboTax website, forced consumers to assent to an adhesive arbitration clause before inputting their information, and then upsold and charged them at the backend of the transaction, while also affirmatively hiding its free software. This was done to ensure that consumers would not have an adequate remedy and allow Defendant to continue its unlawful practices undeterred. In short, Plaintiff Williams challenges the validity of the arbitration clause itself as procured by fraud. Plaintiff Williams also challenges Intuit's class action waiver as procured by fraud. Like the arbitration clause, Intuit used the class action waiver to prevent consumers from obtaining meaningful recourse due to the relatively low sums illegally taken from class members when compared to the cost of individual litigation.

16. Defendant Intuit Inc. ("Intuit") is headquartered in Mountain View, California, and is incorporated under the laws of the State of Delaware. Intuit markets, sells, and operates

TurboTax, a tax preparation and filing software product and service, and is a member of the Free File Alliance, a nonprofit coalition of twelve tax software companies under an agreement with the IRS to provide free electronic tax services to eligible American taxpayers—the Free File Program.

FACTUAL ALLEGATIONS

17. Intuit Inc. is a financial software company that develops and sells financial, accounting, and tax preparation software including TurboTax, QuickBooks, and Mint. The company’s most profitable software, TurboTax, is the leading tax preparation software that provides step-by-step guidance for filling out state and federal tax returns and permits users to electronically file their tax returns using a computer or mobile device.

18. According to Intuit’s website, “[m]ore federal returns are prepared with TurboTax than any other tax preparation provider.” Intuit had revenues of more than \$6.2 billion for the 12- month period ending on January 31, 2019.

A. Intuit Agrees to Participate in the IRS’s Free File Program

19. On October 30, 2002, Intuit and a group of electronic tax filing companies entered into an agreement with the IRS entitled “Free Online Electronic Tax Filing Agreement” (the “Free File Agreement”). The purpose of the Free File Agreement was to provide free electronic tax return preparation and filing for qualified lower-income and economically disadvantaged taxpayers, who were the least likely to be able to afford electronic tax filings for their returns.

20. The benefits of the Free File Agreement served objectives of all parties. It served the IRS’s objective of giving low-income taxpayers a way of being able to afford electronic tax filings, as well as shifting the American public toward e-filing as a whole as opposed to paper filing. It also helped Intuit and the other 11 tax preparation providers’ goal of not having to

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