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9 UNITED STATES DISTRICT COURT
10 FOR THE WESTERN DISTRICT OF WASHINGTON
11 AT SEATTLE

12 IN RE: AMAZON SERVICE FEE
13 LITIGATION

Case No: 2:22-cv-00743-TL

(CONSOLIDATED CASE)

14 CONSOLIDATED CLASS ACTION
15 COMPLAINT- DEMAND FOR JURY TRIAL
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CONSOLIDATED COMPLAINT- CLASS ACTION

BORDE LAW PLLC

1 Plaintiff Dena Griffith (“Plaintiff”), hereby brings this Action against Defendant Amazon.com,
2 Inc. (“Defendant” or “Amazon”) for misleading consumers concerning the amounts they must pay for
3 grocery deliveries from Whole Foods Market and for breaching its contracts with its Amazon Prime
4 members, and upon information and belief and investigation of counsel alleges as follows:

5 **I. JURISDICTION AND VENUE**

6 1. This Court has original jurisdiction over this action under the Class Action Fairness Act
7 of 2005 (“CAFA”), 28 U.S.C. § 1332(d). Defendant is a citizen of a state different from that of the
8 Plaintiff, the putative class size is greater than 100 persons, and the amount in controversy in the
9 aggregate for the putative Class exceeds the sum or value of \$5 million exclusive of interest and costs.

10 2. This Court has both general and specific personal jurisdiction over the Defendant
11 because Defendant has conducted and continues to conduct substantial business in the State of
12 Washington and in King County, Washington.

13 3. This Court has specific personal jurisdiction arising from Defendant’s decision to
14 conduct business in Washington. Defendant has sufficient minimum contacts with this State and
15 sufficiently avails itself to the markets of this State to render the exercise of jurisdiction by this Court
16 reasonable. Defendant maintains its corporate headquarters in the state of Washington.

17 4. Venue is proper in the United States District Court for the Western District of
18 Washington pursuant to 28 U.S.C. § 1391(b) because Defendant resides in this District.

19 **II. PARTIES**

20 5. Defendant Amazon is the world’s largest online marketplace. It is a Delaware
21 corporation that is headquartered at 410 Terry Avenue North, Seattle, Washington 98109-5210.

22 6. Plaintiff Dena Griffith is a citizen of the State of California who resides in Riverside
23 County, California.
24

III. FACTUAL ALLEGATIONS

A. Amazon Advertises that Its Prime Members Will Receive “Free Delivery” and “Free 2-Hour Grocery Delivery”

7. Amazon offers a service called Amazon Prime, which is a paid subscription service that gives users access to additional services otherwise unavailable or available at a premium to other Amazon customers. Amazon Prime services include same, one or two-day delivery of goods and streaming music, video, e-books, gaming and grocery shopping services. In April 2021, Amazon reported that Prime had more than 200 million subscribers worldwide.¹

8. Amazon charges its customers approximately \$14.99 per month or \$139 per year for an Amazon Prime membership. Attached hereto as Exhibit 1 is a true and correct copy of Amazon’s current Prime Membership Agreement as of October 21, 2022.²

9. One of the advertised benefits of Amazon Prime is that members will receive “FREE Delivery” and “FREE 2-Hour Grocery Delivery,” including grocery deliveries from Whole Foods Market. Amazon makes these representations on the Amazon website and in television and print advertisements. Below are representative examples of advertisements from Amazon’s website:

¹ See *Amazon Prime Tops 200 Million Members, Jeff Bezos Says*, VARIETY, available at <https://variety.com/2021/digital/news/amazon-prime-200-million-jeff-bezos-1234952188/> (last visited June 6, 2022).

² The Prime Membership Agreement is available at <https://www.amazon.com/gp/help/customer/display.html?nodeId=G2B9L3YR7LR8J4XP> (last visited October 21, 2022).

FREE 2-Hour Grocery Delivery

Free ultrafast delivery on groceries and household essentials



Shop a wide selection of groceries including fresh foods and produce with free two-hour delivery from Fresh and your local Whole Foods Market. Available in select US cities

- Go to amazon.com/grocery to learn more
- Meet minimum order amount*
- Checkout using your existing Amazon account

* Threshold amount may vary

Check out what's included:



Fast, free delivery

Enjoy fast, free delivery, just for being a Prime member - including 2-hour delivery on thousands of items!



Popular movies and shows

New releases. Award-winning Amazon Originals. Watch what you love on your favorite devices.



Join Prime

FREE One-Day Delivery

Get items the next day



Available on more than ten million products, with no minimum purchase. Receive orders by 9 p.m the next day. Filter by "Get it tomorrow" when shopping. Selection and order cutoff varies by area.

- Look for the One-Day logo
- Add eligible items to your cart.
- Select delivery option at checkout.

LEARN MORE

B. Amazon's "Free Delivery" Advertisements Are False and Misleading Because Amazon Charges a \$9.95 Service Fee for Grocery Deliveries from Whole Foods Market

10. Whole Foods Market is a supermarket chain that is popularly known for its selections of organic foods. Whole Foods has approximately 500 stores in North America. In August of 2017, Amazon acquired Whole Foods Market and continues to own Whole Foods Market.

11. Amazon offers its prime members 2-hour grocery delivery from Whole Foods Market.

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