

IN THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
Civil Division

DISTRICT OF COLUMBIA,
a municipal corporation
441 4th Street, N.W.
Washington, D.C. 20001,

Plaintiff,

v.

**TOWN SPORTS INTERNATIONAL,
LLC,**
d/b/a WASHINGTON SPORTS CLUBS
399 Executive Boulevard
Elmsford, NY 10523,

Serve On:
CT Corporation System
Registered Agent
1015 15th Street, N.W., Suite 1000
Washington, D.C. 20005

Defendant.

Case No.:

JURY TRIAL DEMANDED

**COMPLAINT FOR VIOLATIONS OF THE CONSUMER PROTECTION
PROCEDURES ACT**

Plaintiff District of Columbia (“the District”), through the Office of the Attorney General, brings this action against Defendant Town Sports International, LLC (“TSI” or “the Company”), doing business as Washington Sports Clubs, for violations of the District’s Consumer Protection Procedures Act (“CPPA”), D.C. Code §§ 28-3901, *et seq.*

TSI owns and operates fitness clubs in the District of Columbia. On March 16, 2020, in response to the COVID-19 public health emergency, Mayor Muriel Bowser ordered the closure of all health clubs and health spas. Despite the fact that its gyms were closed, TSI continued to charge its members dues in March and April. In response to a flood of consumer complaints, media

reports, and inquiries from the District, TSI ultimately agreed to freeze all memberships until the clubs reopened. TSI also assured consumers that they would (i) issue credits, to be applied when gyms reopen, equal to the number of days paid by consumers while the clubs were closed; and (ii) honor all cancellations and allow consumers to cancel their memberships online.

The District entered Phase Two of the Mayor's Reopening plan on June 22, 2020, allowing health clubs to reopen. Upon reopening, however, TSI failed to supply the promised credits to its members that paid dues during the closure, and immediately charged consumers pro-rated membership fees for June. Consumers were again charged full membership fees for July and August.

In addition, despite TSI's assurances that it would honor all cancellations, it failed to process cancellations submitted by consumers. Members who submitted cancellation requests during the gyms' closure have continued to be charged membership dues since the gyms have reopened.

The District brings this action to stop TSI from continuing to engage in deceptive and unlawful trade practices in violation of the CPPA, to obtain restitution for District consumers and civil penalties as permitted by statute, and to recover the District's fees and costs.

Jurisdiction

1. This Court has jurisdiction over the subject matter of this case pursuant to D.C. Code §§ 11-921 and 28-3909.

2. This Court has personal jurisdiction over Defendant TSI pursuant to D.C. Code § 13-423(a).

3. The Attorney General for the District of Columbia brings this action pursuant to the authority granted by D.C. Code § 28-3909.

The Parties

4. Plaintiff District of Columbia (“District”), a municipal corporation empowered to sue and be sued, is the local government for the territory constituting the permanent seat of the government of the United States. The District is represented by and through its chief legal officer, the Attorney General for the District of Columbia. The Attorney General has general charge and conduct of all legal business of the District and all suits initiated by and against the District and is responsible for upholding the public interest. D.C. Code § 1-301.81(a)(1). The Attorney General is specifically authorized to enforce the District’s consumer protection laws, including the CPPA, pursuant to D.C. Code § 28-3909.

5. Defendant TSI is a New York corporation with its headquarters and principal place of business at 1001 US North Highway 1, Suite 201, Jupiter, Florida 33477. TSI owns and operates fitness centers in the United States under various trade names, including four clubs in Washington, D.C. (“D.C.”) under the name Washington Sports Clubs. TSI engages, and has engaged, in the offer and sale of goods or services to consumers in D.C. for their personal, household or family purposes, by offering and selling fitness memberships and services.

Facts

6. On March 16, 2020, in response to the COVID-19 public health emergency, Mayor Muriel Bowser ordered the closure of all health clubs and health spas. In compliance with the Mayor’s Order, TSI suspended operation of its six clubs in D.C on March 17.¹

7. On or around March 25, 2020, TSI sent a letter to its consumers promising that the Company would issue credits for membership fees charged during the pandemic once the clubs

¹ Prior to suspending operations due to the public health emergency, TSI operated six clubs in D.C. In June 2020, however, TSI announced that it was permanently closing two of its clubs. Therefore, TSI only re-opened four of its clubs on June 22, 2020.

were “up and functionally running.”

8. On or around April 1, 2020, TSI charged consumers April membership fees, despite the fact that the clubs were closed. On April 3, 2020, in response to dozens of consumer complaints regarding TSI’s April charges, the District contacted the Company and requested that it freeze all memberships, honor cancellation requests, and stop charging fees during a time that their members cannot legally and healthfully access their facilities. In response, TSI sent members a letter on April 8, 2020 promising to freeze all memberships until the clubs reopened, allowing consumers to cancel their memberships online, and again confirming that members would receive credits equal to the number of days paid for while the clubs were closed.

9. On May 1, by letter to consumers, TSI again reiterated its promise to freeze all memberships while the clubs were closed and confirmed that members would receive credits “equal to the number of days paid for while the clubs were closed.”

10. The District entered Phase Two of the Mayor’s Reopening plan on June 22, 2020, allowing health clubs to reopen.

11. Upon reopening its gyms on June 22, 2020, TSI immediately began charging consumers membership fees. On or around June 22, consumers were charged a pro-rated amount for June membership fees. Members were also charged full membership fees for July and August. TSI also did not process cancellation requests received while the gyms were closed, charging membership fees to consumers who had gone through the appropriate steps to cancel their memberships and received emails confirming their cancellation.

12. Indeed, despite its promises to consumers, TSI continues to charge membership fees to consumers who have canceled their accounts and has still not applied credits to all members’ accounts equal to the number of days paid for while the clubs were closed.

Count I: Violations of the Consumer Protection Procedures Act

13. The allegations of paragraphs 1 through 12 are re-alleged as if fully set forth herein.

14. The CPPA is a remedial statute that is to be broadly construed. It establishes an enforceable right to truthful information from merchants about consumer goods and services that are or would be purchased, leased or received in the District of Columbia.

15. The fitness memberships and services that TSI sells to consumers are purchased for personal, household or family purposes and, therefore, are consumer goods and services.

16. TSI, in the ordinary course of business, offers to sell or supply consumer goods and services and is therefore a merchant.

17. The CPPA prohibits unlawful trade practices in connection with the offer, sale and supply of consumer goods and services.

18. Under the CPPA, it is an unlawful trade practice for any person to misrepresent as to a material fact which has a tendency to mislead. D.C. Code § 28-3904(e).

19. TSI's representations to consumers that consumers would receive credits to their accounts equal to the number of days paid for while the clubs were closed are misrepresentations concerning material facts that have a tendency to mislead consumers and are unlawful trade practices that violates the CPPA, D.C. Code § 28-3904(e).

20. TSI's representations to consumers that they could cancel their memberships online through TSI's website and its representations that consumers' cancelation requests had been accepted are misrepresentations concerning material facts that have a tendency to mislead consumers and are unlawful trade practices that violate the CPPA, D.C. Code § 28-3904(e).

Prayer for Relief

WHEREFORE, the District of Columbia respectfully requests this Court enter a judgment in its favor and grant relief against Defendant TSI as follows:

- (a) Preliminarily or permanently enjoin Defendant, pursuant to D.C. Code § 28-3909(a), from violating the CPPA;
- (b) Order Defendant to pay restitution and damages pursuant to D.C. Code § 28-3909(a) and (b);
- (c) Order the payment of civil penalties as permitted by statute pursuant to D.C. Code § 28-3909(b);
- (d) Award the District the costs of this action and reasonable attorney’s fees pursuant to D.C. Code § 28-3909(b); and
- (e) Grant such further relief as the Court deems just and proper.

Jury Demand

The District of Columbia demands a trial by jury by the maximum number of jurors permitted by law.

Respectfully submitted,

Dated: August 20, 2020

KARL A. RACINE
Attorney General for the District of Columbia

KATHLEEN KONOPKA
Deputy Attorney General
Public Advocacy Division

/s/ Benjamin Wiseman _____
BENJAMIN WISEMAN [1005442]
Director, Office of Consumer Protection
Public Advocacy Division

/s/ Lindsay Marks

LINDSAY MARKS [1618037]

Assistant Attorney General

Office of the Attorney General

441 Fourth Street, N.W., Suite 600 South

Washington, D.C. 20001

(202) 724-6649

lindsay.marks@dc.gov

Attorneys for the District of Columbia



Superior Court of the District of Columbia
CIVIL DIVISION
Civil Actions Branch
500 Indiana Avenue, N.W., Suite 5000 Washington, D.C. 20001
Telephone: (202) 879-1133 Website: www.dccourts.gov

District of Columbia

 Plaintiff

vs.

Case Number _____

Town Sports International, LLC

 Defendant

SUMMONS

To the above named Defendant:

You are hereby summoned and required to serve an Answer to the attached Complaint, either personally or through an attorney, within twenty one (21) days after service of this summons upon you, exclusive of the day of service. If you are being sued as an officer or agency of the United States Government or the District of Columbia Government, you have sixty (60) days after service of this summons to serve your Answer. A copy of the Answer must be mailed to the attorney for the plaintiff who is suing you. The attorney's name and address appear below. If plaintiff has no attorney, a copy of the Answer must be mailed to the plaintiff at the address stated on this Summons.

You are also required to file the original Answer with the Court in Suite 5000 at 500 Indiana Avenue, N.W., between 8:30 a.m. and 5:00 p.m., Mondays through Fridays or between 9:00 a.m. and 12:00 noon on Saturdays. You may file the original Answer with the Court either before you serve a copy of the Answer on the plaintiff or within seven (7) days after you have served the plaintiff. If you fail to file an Answer, judgment by default may be entered against you for the relief demanded in the complaint.

Lindsay Marks

Clerk of the Court

 Name of Plaintiff's Attorney

441 4th Street, N.W.

By _____

Address

Deputy Clerk

Washington, D.C. 20001

202-727-3400

Date _____

Telephone

如需翻译,请打电话 (202) 879-4828

Veuillez appeler au (202) 879-4828 pour une traduction

Đề có một bài dịch, hãy gọi (202) 879-4828

번역을 원하시면, (202) 879-4828로 전화주세요. የአማርኛ ትርጉም ለማግኘት (202) 879-4828 ይደውሉ

IMPORTANT: IF YOU FAIL TO FILE AN ANSWER WITHIN THE TIME STATED ABOVE, OR IF, AFTER YOU ANSWER, YOU FAIL TO APPEAR AT ANY TIME THE COURT NOTIFIES YOU TO DO SO, A JUDGMENT BY DEFAULT MAY BE ENTERED AGAINST YOU FOR THE MONEY DAMAGES OR OTHER RELIEF DEMANDED IN THE COMPLAINT. IF THIS OCCURS, YOUR WAGES MAY BE ATTACHED OR WITHHELD OR PERSONAL PROPERTY OR REAL ESTATE YOU OWN MAY BE TAKEN AND SOLD TO PAY THE JUDGMENT. IF YOU INTEND TO OPPOSE THIS ACTION, DO NOT FAIL TO ANSWER WITHIN THE REQUIRED TIME.

If you wish to talk to a lawyer and feel that you cannot afford to pay a fee to a lawyer, promptly contact one of the offices of the Legal Aid Society (202-628-1161) or the Neighborhood Legal Services (202-279-5100) for help or come to Suite 5000 at 500 Indiana Avenue, N.W., for more information concerning places where you may ask for such help.

See reverse side for Spanish translation
 Veá al dorso la traducción al español



TRIBUNAL SUPERIOR DEL DISTRITO DE COLUMBIA
DIVISIÓN CIVIL
Sección de Acciones Civiles
500 Indiana Avenue, N.W., Suite 5000, Washington, D.C. 20001
Teléfono: (202) 879-1133 Sitio web: www.dccourts.gov

District of Columbia

_____ Demandante
 contra

Número de Caso: _____

Town Sports International, LLC
 _____ Demandado

CITATORIO

Al susodicho Demandado:

Por la presente se le cita a comparecer y se le requiere entregar una Contestación a la Demanda adjunta, sea en persona o por medio de un abogado, en el plazo de veintiún (21) días contados después que usted haya recibido este citatorio, excluyendo el día mismo de la entrega del citatorio. Si usted está siendo demandado en calidad de oficial o agente del Gobierno de los Estados Unidos de Norteamérica o del Gobierno del Distrito de Columbia, tiene usted sesenta (60) días, contados después que usted haya recibido este citatorio, para entregar su Contestación. Tiene que enviarle por correo una copia de su Contestación al abogado de la parte demandante. El nombre y dirección del abogado aparecen al final de este documento. Si el demandado no tiene abogado, tiene que enviarle al demandante una copia de la Contestación por correo a la dirección que aparece en este Citatorio.

A usted también se le requiere presentar la Contestación original al Tribunal en la Oficina 5000, sito en 500 Indiana Avenue, N.W., entre las 8:30 a.m. y 5:00 p.m., de lunes a viernes o entre las 9:00 a.m. y las 12:00 del mediodía los sábados. Usted puede presentar la Contestación original ante el Juez ya sea antes que usted le entregue al demandante una copia de la Contestación o en el plazo de siete (7) días de haberle hecho la entrega al demandante. Si usted incumple con presentar una Contestación, podría dictarse un fallo en rebeldía contra usted para que se haga efectivo el desagravio que se busca en la demanda.

Lindsay Marks

 Nombre del abogado del Demandante

SECRETARIO DEL TRIBUNAL

441 4th Street, N.W.

 Dirección
 Washington, D.C. 20001

Por: _____
 Subsecretario

202-727-3400

 Teléfono

Fecha _____

如需翻译,请打电话 (202) 879-4828 Veuillez appeler au (202) 879-4828 pour une traduction Để có một bản dịch, hãy gọi (202) 879-4828
 반변을 원하시면 (202) 879-4828 로 전화하십시오 የአማርኛ ትርጉም ለማግኘት (202) 879-4828 ይደውሉ

IMPORTANTE: SI USTED INCUMPLE CON PRESENTAR UNA CONTESTACIÓN EN EL PLAZO ANTES MENCIONADO O, SI LUEGO DE CONTESTAR, USTED NO COMPARECE CUANDO LE AVISE EL JUZGADO, PODRÍA DICTARSE UN FALLO EN REBELDÍA CONTRA USTED PARA QUE SE LE COBRE LOS DAÑOS Y PERJUICIOS U OTRO DESAGRAVIO QUE SE BUSQUE EN LA DEMANDA. SI ESTO OCURRE, PODRÍA RETENÉRSELE SUS INGRESOS, O PODRÍA TOMÁRSELE SUS BIENES PERSONALES O BIENES RAÍCES Y SER VENDIDOS PARA PAGAR EL FALLO. SI USTED PRETENDE OPONERSE A ESTA ACCIÓN, NO DEJE DE CONTESTAR LA DEMANDA DENTRO DEL PLAZO EXIGIDO.

Si desea conversar con un abogado y le parece que no puede pagarle a uno, llame pronto a una de nuestras oficinas del Legal Aid Society (202-628-1161) o el Neighborhood Legal Services (202-279-5100) para pedir ayuda o venga a la Oficina 5000 del 500 Indiana Avenue, N.W., para informarse sobre otros lugares donde puede pedirayuda al respecto.

Vea al dorso el original en inglés
 See reverse side for English original

Superior Court of the District of Columbia

CIVIL DIVISION- CIVIL ACTIONS BRANCH INFORMATION SHEET

District of Columbia _____ Case Number: _____
 vs Date: 8/20/2020
 Town Sports International, LLC _____ One of the defendants is being sued
 in their official capacity.

Name: <i>(Please Print)</i> Lindsay Marks, AAG	Relationship to Lawsuit <input checked="" type="checkbox"/> Attorney for Plaintiff
Firm Name: DC Office of the Attorney General	<input type="checkbox"/> Self (Pro Se)
Telephone No.: 202-727-3400 Six digit Unified Bar No.: 1618037	<input type="checkbox"/> Other: _____

TYPE OF CASE: Non-Jury 6 Person Jury 12 Person Jury
 Demand: \$ _____ Other: permanent injunction from violating the CPPA, restitution, and civil penalties
 PENDING CASE(S) RELATED TO THE ACTION BEING FILED
 Case No.: 2019 CA 000126 B Judge: Yvonne Williams Calendar #: Civil 2, calendar 5
 Case No.: _____ Judge: _____ Calendar#: _____

NATURE OF SUIT: <i>(Check One Box Only)</i>		
A. CONTRACTS <input type="checkbox"/> 01 Breach of Contract <input type="checkbox"/> 02 Breach of Warranty <input type="checkbox"/> 06 Negotiable Instrument <input type="checkbox"/> 07 Personal Property <input type="checkbox"/> 13 Employment Discrimination <input type="checkbox"/> 15 Special Education Fees	COLLECTION CASES <input type="checkbox"/> 14 Under \$25,000 Pltf. Grants Consent <input type="checkbox"/> 17 OVER \$25,000 Pltf. Grants Consent <input type="checkbox"/> 27 Insurance/Subrogation Over \$25,000 Pltf. Grants Consent <input type="checkbox"/> 07 Insurance/Subrogation Under \$25,000 Pltf. Grants Consent <input type="checkbox"/> 28 Motion to Confirm Arbitration Award (Collection Cases Only)	<input type="checkbox"/> 16 Under \$25,000 Consent Denied <input type="checkbox"/> 18 OVER \$25,000 Consent Denied <input type="checkbox"/> 26 Insurance/Subrogation Over \$25,000 Consent Denied <input type="checkbox"/> 34 Insurance/Subrogation Under \$25,000 Consent Denied
B. PROPERTY TORTS <input type="checkbox"/> 01 Automobile <input type="checkbox"/> 03 Destruction of Private Property <input type="checkbox"/> 05 Trespass <input type="checkbox"/> 02 Conversion <input type="checkbox"/> 04 Property Damage <input type="checkbox"/> 07 Shoplifting, D.C. Code § 27-102 (a)		
C. PERSONAL TORTS <input type="checkbox"/> 01 Abuse of Process <input type="checkbox"/> 10 Invasion of Privacy <input type="checkbox"/> 17 Personal Injury- (Not Automobile, Not Malpractice) <input type="checkbox"/> 02 Alienation of Affection <input type="checkbox"/> 11 Libel and Slander <input type="checkbox"/> 18 Wrongful Death (Not Malpractice) <input type="checkbox"/> 03 Assault and Battery <input type="checkbox"/> 12 Malicious Interference <input type="checkbox"/> 19 Wrongful Eviction <input type="checkbox"/> 04 Automobile- Personal Injury <input type="checkbox"/> 13 Malicious Prosecution <input type="checkbox"/> 20 Friendly Suit <input checked="" type="checkbox"/> 05 Deceit (Misrepresentation) <input type="checkbox"/> 14 Malpractice Legal <input type="checkbox"/> 21 Asbestos <input type="checkbox"/> 06 False Accusation <input type="checkbox"/> 15 Malpractice Medical (Including Wrongful Death) <input type="checkbox"/> 22 Toxic/Mass Torts <input type="checkbox"/> 07 False Arrest <input type="checkbox"/> 16 Negligence- (Not Automobile, Not Malpractice) <input type="checkbox"/> 23 Tobacco <input type="checkbox"/> 08 Fraud <input type="checkbox"/> 24 Lead Paint		

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Information Sheet, Continued

C. OTHERS

- | | |
|---|---|
| <input type="checkbox"/> 01 Accounting | <input type="checkbox"/> 17 Merit Personnel Act (OEA) |
| <input type="checkbox"/> 02 Att. Before Judgment | (D.C. Code Title 1, Chapter 6) |
| <input type="checkbox"/> 05 Ejectment | <input type="checkbox"/> 18 Product Liability |
| <input type="checkbox"/> 09 Special Writ/Warrants
(DC Code § 11-941) | <input type="checkbox"/> 24 Application to Confirm, Modify,
Vacate Arbitration Award (DC Code § 16-4401) |
| <input type="checkbox"/> 10 Traffic Adjudication | <input type="checkbox"/> 29 Merit Personnel Act (OHR) |
| <input type="checkbox"/> 11 Writ of Replevin | <input type="checkbox"/> 31 Housing Code Regulations |
| <input type="checkbox"/> 12 Enforce Mechanics Lien | <input type="checkbox"/> 32 Qui Tam |
| <input type="checkbox"/> 16 Declaratory Judgment | <input type="checkbox"/> 33 Whistleblower |

II.

- | | | |
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| <input type="checkbox"/> 03 Change of Name | <input type="checkbox"/> 15 Libel of Information | <input type="checkbox"/> 21 Petition for Subpoena
[Rule 28-I (b)] |
| <input type="checkbox"/> 06 Foreign Judgment/Domestic | <input type="checkbox"/> 19 Enter Administrative Order as
Judgment [D.C. Code § | <input type="checkbox"/> 22 Release Mechanics Lien |
| <input type="checkbox"/> 08 Foreign Judgment/International | 2-1802.03 (h) or 32-151 9 (a)] | <input type="checkbox"/> 23 Rule 27(a)(1)
(Perpetuate Testimony) |
| <input type="checkbox"/> 13 Correction of Birth Certificate | <input type="checkbox"/> 20 Master Meter (D.C. Code § | <input type="checkbox"/> 24 Petition for Structured Settlement |
| <input type="checkbox"/> 14 Correction of Marriage
Certificate | 42-3301, et seq.) | <input type="checkbox"/> 25 Petition for Liquidation |
| <input type="checkbox"/> 26 Petition for Civil Asset Forfeiture (Vehicle) | | |
| <input type="checkbox"/> 27 Petition for Civil Asset Forfeiture (Currency) | | |
| <input type="checkbox"/> 28 Petition for Civil Asset Forfeiture (Other) | | |

D. REAL PROPERTY

- | | |
|--|--|
| <input type="checkbox"/> 09 Real Property-Real Estate | <input type="checkbox"/> 08 Quiet Title |
| <input type="checkbox"/> 12 Specific Performance | <input type="checkbox"/> 25 Liens: Tax / Water Consent Granted |
| <input type="checkbox"/> 04 Condemnation (Eminent Domain) | <input type="checkbox"/> 30 Liens: Tax / Water Consent Denied |
| <input type="checkbox"/> 10 Mortgage Foreclosure/Judicial Sale | <input type="checkbox"/> 31 Tax Lien Bid Off Certificate Consent Granted |
| <input type="checkbox"/> 11 Petition for Civil Asset Forfeiture (RP) | |

Lindsay Marks

Attorney's Signature

8/20/2020

Date