

SUPERIOR COURT OF NJ
BURLINGTON COUNTY
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Civil Division

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BURLINGTON COUNTY

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Debra Dugan, on behalf of herself, and all others similarly situated	:	Superior Court New Jersey
	:	Burlington County - Law Division
	:	
<i>Plaintiff,</i>	:	Docket no: BUR-L-0126-10
v.	:	
	:	
TGI Friday's Inc., Carlson Restaurants Worldwide, Inc., on behalf of themselves and all others similarly situated	:	Civil Action
	:	COMPLAINT
<i>Defendants.</i>	:	

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URY

This action is brought by the Plaintiff on behalf of herself, and all others similarly situated, whose joinder in this action is impracticable because of the number of Plaintiffs and the size of their prospective claims.

THE PARTIES

1. Plaintiff Debra Dugan resides at 704 Smithville Road, Southampton, New Jersey.
2. Defendant TGI Friday's Inc. (hereinafter "TGIF") is a New York corporation with its principal place of business in Carrollton, Texas. TGIF also maintains a New Jersey business license and runs the TGI Friday's Restaurant located at 40 Centerton Road, Mt. Laurel, New Jersey as well as other locations in New Jersey.
3. Defendant Carlson Restaurants Worldwide Inc. (hereinafter "CRWW") is a Delaware corporation with its principal place of business in Carrollton, Texas.

BACKGROUND

4. Plaintiff is a consumer who eats and drinks at the TGI Friday's restaurant located at 40 Centerton Road, Mount Laurel, Burlington County, New Jersey, as well as other TGIF restaurants.
5. The TGI Friday's restaurant located 40 Centerton Road, Mount Laurel, New Jersey as well as other TGI Friday's Restaurants are owned and run by TGIF. Other New Jersey TGI Friday's Restaurants are run by a franchisee of TGIF and/or CRWW.

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6. All TGI Friday's restaurants located in the state of New Jersey are run by franchisees or corporate owned. Each uses menus mandated by TGIF and/or CRWW that do not disclosed the price of beer, mixed drinks and soft drinks. In no other place at the point of purchase are these beverage prices marked or displayed.
7. The prices for wine and food items are properly disclosed on the menu.
8. Defendants charged plaintiff an undisclosed amount for beverages while dining at the Defendants' establishment. Unknown to the Plaintiff, these amounts change depending on where and when the beverage was ordered.
9. Plaintiff purchased beer at the bar and was charged \$2.00 per beer. Plaintiff then sat at a table and ordered additional beer and other food items. After consuming the beverages Plaintiff was charged \$3.59 per beer.
10. Defendants fail to disclose the price of beverages and consumers only become aware of the prices when presented with an invoice (or "check") after the beverage is consumed.

CLASS ALLEGATIONS

PLAINTIFF CLASS

11. The proposed plaintiff class consists of all New Jersey customers of TGI Friday's who purchased items from the menu that did not have a disclosed price. The members of the prospective plaintiff class are so numerous that joinder of all class members is impractical. Plaintiff's good faith belief is that there are several thousand plaintiff class members as Defendants are a nation wide restaurant chain with approximately 38 stores throughout the State of New Jersey. The exact number and identities of the plaintiff class members are currently unknown and can only be ascertained from the books and records of the Defendants and/or appropriate discovery.

DEFENDANT CLASS

12. The proposed defendant class consists of all New Jersey TGI Friday's restaurants that utilize menus that do not disclose the price of all beverages. The members of the prospective defendant class is consistent with the approximately 38 TGI Friday's restaurants throughout the state of New Jersey all of who act in an identical fashion using identical menus and do not otherwise disclose the price of beverages at the point of purchase. The prospective defendant class will focus on common defenses and typical defenses as all are alleged to act in the same fashion.
13. Common questions of law and fact exist as to all members of the bilateral classes that predominate over any questions affecting any individual member of the classes.

14. Common questions of fact include, but may not be limited to:
 - (a) Do the defendants fail to disclose the price of merchandise they offer for sale?
 - (b) Do defendants fail to disclose that they charge different prices for the same merchandise depending on where the item is ordered?
15. Common questions of law include, but may not be limited to:
 - (a) Do defendants' actions constitute a violation under the Consumer Fraud Act?
 - (b) Is defendants' conduct in failing to provide pricing information for the beverages they offer for sale to consumers in violation of the Consumer Fraud Act and the Truth in Consumer Contract, Warranty and Notice Act?
16. Plaintiff's claims and defendant's defenses are typical of the claims and defenses of the bilateral classes. Plaintiff and defendant have the same interest as all other members of the bilateral classes - all Plaintiffs have an identical interest to pursue the violator of the Consumer Fraud Act and Truth in Consumer Contract, Warranty and Notice Act as it relates to beverage charges and all defendants have an identical interest to defend these allegations. The plaintiff class members allege the defendant class members violate New Jersey statutes and have been unjustly enriched as a result of their practices.
17. Plaintiff will fairly and adequately represent and protect the interest of the plaintiff class. Plaintiff is an individual who purchased beverages from the lead defendant and has a vested interest in not being a victim to violators of the New Jersey Consumer Fraud Act and Truth in Consumer Contract, Warranty and Notice Act. Plaintiff has retained counsel with experience in class action litigation, as well as other complex litigation. The interest of the Plaintiff is coincident to, and not antagonistic to, the interest of other class members.
18. Defendants TGIF and CRWW will, fairly and adequately represent and protect the interest of the defendant class. TGIF and CRWW are believed to control the menu content of all TGI Friday restaurants in New Jersey and as such have a vested interest in defending the allegations made in this complaint.
19. The questions of law and fact common to members of the plaintiff class predominant over any questions affecting individual plaintiff class members. The prosecution of separate actions by individual members of the class would result in duplicitous litigation over the same issues and possibly create a risk of inconsistent or varying adjudications that could result in establishing inconsistent standards of conduct, policies and/or procedures for the Defendants. The Defendants hold policies that affect all class members identically.
20. A class action is superior to other available methods for the fair and efficient adjudication of this controversy. Since the damages suffered by individual class members with respect to each alleged violation are relatively small (for example, the beverage charges here are only \$2.00 for each Coors Light beer at the bar and \$3.59 each for the same beer at a table and sodas are less than \$5.00 each), the expense and burdens of individual litigation make it difficult for members of the class to individually seek redress of the wrongs imposed upon them.

COUNT I

Consumer Fraud (N.J.S.A. 56:8-1 et. seq.)

21. Defendants' practices constitute unconscionable commercial practices and/or otherwise violate the Consumer Fraud Act.
22. Defendants' practice constitute a form of "bait and switch" advertising under N.J.S.A. 56:8-2.2 as the price of the purchased items are not revealed until after the consumer is presented with a bill and the merchandise has already been consumed and the prices are sometimes different in different locations of the restaurant.
23. Defendants' practices constitute a violation of N.J.S.A. 56:8-2.5 because defendants sell, attempt to sell or offer for sale merchandise that is not price marked at the point of purchase.
24. The above actions of the Defendants violates New Jersey's Consumer Fraud Act as to the plaintiff and the plaintiff class.

Wherefore, Plaintiff, Debra Dugan and the putative plaintiff class, requests judgment against Defendants TGIF, CRWW and the putative defendant class as follows:

- a. Compelling a refund of all sums collected for the sale of beverages not price marked pursuant to N.J.S.A. 56:8-2.11;
- b. Awarding actual and consequential damages;
- c. Trebling said damages pursuant to *N.J.S.A. 56:8-19*;
- d. Awarding counsel fees and costs pursuant to *N.J.S.A. 56:8-19*; and
- e. Awarding other such relief that the Court deems fair and necessary.

COUNT II

Truth in Consumer Contract, Warranty and Notice Act, N.J.S.A. 56:12-14 et.seq.

25. The above allegations are herein incorporated by reference.
26. In the course of their business defendants offer consumers or prospective consumers beverages by way of contract, notice or sign in the form of a menu that violates a clearly established right of the consumer to have the total selling price plainly marked or located at the point where the merchandise is offered for sale.
27. The above actions of the Defendants violates Truth in Consumer Contract, Warranty and Notice Act as to the plaintiff and the plaintiff class

Wherefore, Plaintiff, Debra Dugan and the putative plaintiff class, requests judgment against Defendants TGIF, CRWW and the putative defendant class as follows:

- a. Awarding actual damages;
- b. Awarding a civil penalty of not less than \$100 to each Plaintiff class member
- c. Awarding counsel fees and costs pursuant to N.J.S.A. 56:12-17
- d. Compelling a refund of all sums collected for the sale of beverages not priced marked:
- e. Awarding other such relief that the Court deems fair and necessary.

FRIEDMAN DOHERTY, LLC



SANDER D. FRIEDMAN

DESIGNATION OF TRIAL COUNSEL

Pursuant to R. 4:25-4, Sander D. Friedman, Esquire is hereby designated as trial counsel on behalf of the Plaintiff.

JURY DEMAND

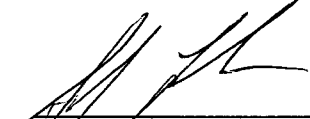
Plaintiff hereby demands trial by jury.

CERTIFICATION OF COUNSEL PURSUANT TO RULE 4:5-1

I, the undersigned, hereby certify the matter in controversy is not the subject of any other action in any court nor a pending arbitration proceeding. Furthermore, there is no other action or arbitration proceeding contemplated. I further certify that there are no other parties that should be joined to this action.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

FRIEDMAN DOHERTY, LLC

BY: 

SANDER D. FRIEDMAN