

one purpose and one purpose only – to access and use gym facilities. By contract and by law, TSI charges customers membership dues strictly *in exchange for gym access*, and despite not providing such gym access it continues to charge customers’ credit cards.

3. People across the United States are currently under enormous financial strain due to “shelter-in-place” regulations, business closures, abrupt mass layoffs and the recent market collapse. As a result, numerous gym chains have, on their own accord, announced that membership charges will be suspended.² TSI has not – and this conduct is the height of corporate greed, lack of empathy and putting profits before people.

4. Moreover, the scope of this conduct cannot be overlooked. According to TSI’s Form 10-K annual report filed with the Securities and Exchange Commission (“SEC”) on March 20, 2020 (the “2019 Annual Report”), the company boasts 605,000 gym members,³ who pay monthly membership dues ranging from approximately \$30 to \$120.⁴ Therefore, even assuming average monthly rate of \$50, TSI is stealing \$30,250,000 per month from customers.

5. To make matters worse, during this time, TSI has also made it virtually impossible for members to cancel their memberships and has refused to honor many members’

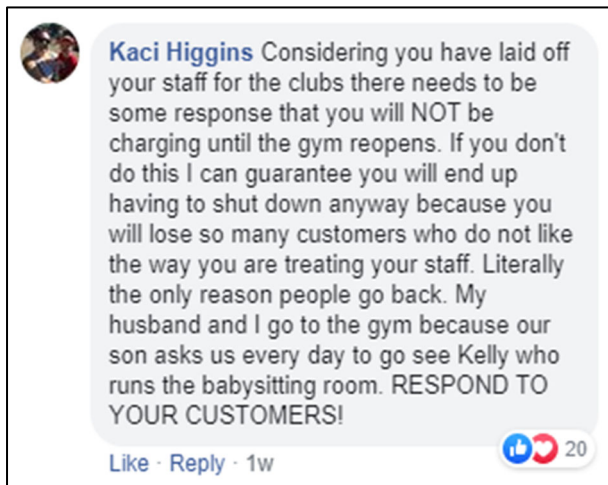
² See, e.g., *Equinox* <https://www.equinox.com/covid19update?icmp=banner-covid> (last accessed April 8, 2020) (stating “Your membership will be put on freeze at no cost as of the day the club closed. No further action is required to freeze.”); *Blink Fitness* <https://www.blog.blinkfitness.com/blink-fitness-gym-updates> (last accessed April 8, 2020) (“What happens to my membership if my gym is closed? You will not be billed during the time that your Blink gym is closed. Your membership will be put on freeze until we re-open. No action is needed on your part to start the freeze.”); *Barry’s BootCamp* <https://www.barrys.com/covid-19/> (last accessed April 8, 2020) (“For any existing reservations, we will return these classes to your account. Additionally, all class packages and memberships will be adjusted to reflect the duration of these closures.”).

³ See <https://investor.mysportsclubs.com/static-files/3218e839-c8aa-4d2a-ad14-907e8f27ffd6> (last accessed April 8, 2020).

⁴ See, e.g., <https://www.newyorksportsclubs.com/clubs/23rd-park;> <https://www.newyorksportsclubs.com/clubs/forest-hills> (last accessed April 8, 2020).

cancellation requests. TSI has a long history of refusing to honor member cancellation requests,⁵ but it is particularly reprehensible in this moment.

6. TSI's gym members have been frantically posting messages on Yelp! and Facebook seeking help to avoid further charges (mere examples below):





⁵ See <https://oag.dc.gov/release/attorney-general-obtains-settlement-washington> (last accessed March 25, 2020) (D.C. Attorney General's Office settled claims with TSI for lying to customers about cancellation policies and refusing to honor cancellation requests); District of Columbia v. Town Sports International, LLC, No. 2019 CA 000126 (D.C. Sup. Ct. Jan. 8, 2019) (DC Attorney General's Office brought claims against TSI for continuing to lie to customers about cancellation policies and breaching the previous agreement); Lehnert, et al. v. Town Sports International, LLC, et al., No. 18-cv-02705 (S.D.N.Y. filed December 7, 2018) (Second Amended Complaint with 55 plaintiffs alleging failure to cancel memberships upon request); Tuan, et al. v. Town Sports International, LLC, et al., No. 19-cv-02812 (E.D.N.Y. filed May 13, 2019) (10 plaintiffs also alleging that TSI refused to honor cancellation requests and continued to charge customers following cancellation requests).

 **Kelli J Fancie** I'm a member at TMPL and have been trying to freeze my membership. No ONE is answering emails. With all That's happening in the world it's shameful to have to chase up a company to freeze a membership when we're unable to utilize the gyms.


They are very quick to send an email about everything else so why not send an email about freezing memberships as a sign of good faith in humanity?!

Like · Reply · 6d · Edited    31

 **Suzie KY** Are you going to stop charging us for the membership while the NYSC is closed? Since we have no access I don't think it's fair to be charged. I have not gone since January since the news has been announced so if there is additional charges I might have to think about cancelling. Hope someone gets back to me. Thanks!


Like · Reply · 5d  9


 **David Eduardo Aanderud** You give no information about nothing, this is so annoying. You need to communicate with members.


Like · Reply · 6d  14



 **Rodger Padgett** So How are we going to be refunded our monthly membership paid for those days you are closed and are you freezing future payments until your clubs are actually letting us use the facilities again?


Like · Reply · 6d  3



 **Robin Collymore** I STRONGLY SUGGEST MEMBERS CALL THEIR CREDIT CARD COMPANIES AND HAVE THEM BLOCK CHARGES FROM NYSC ..They've demonstrated how they treated their staff.. Fired without notice... no 2 weeks pay.... a convoluted process for rehire.....what makes you think members will be treated differently?

Like · Reply · 2d  9

 **Christine Palma** I did not receive any sort of communication from NYSC about closure or freezing membership. Is it time for a class action?

Like · Reply · 6d   10

 **Miriam Colon** Dues for members should be suspended while gym is closed. We deserve the same respect. We should all get prorated for the time gym is closed. I am a Bayridge Brooklyn member.


Like · Reply · 6d   20


 **Stefanos Koroneos** We all want to know if you are freezing out memberships. Your silence from you side is totally not acceptable


Like · Reply · 5d    25


 **Sara Cristina New York Sports Clubs** Where is the written communication to members? I called my home club and was told corporate communications would send out instructions. I haven't received anything. We need an infokit with next steps to take!!!!!!!!!!!!!!


Like · Reply · 5d   7

 **Greg Endries** Same question as everyone else: Will you be freezing our membership dues while closed during this period?

Like · Reply · 4d  5

 **Rachel Jelderks** Hi, I have tried emailing and contacting the gym. Since the gym is closed I would like my membership suspended for the time being (i already got charged this month). Can someone advise?
Like · Reply · 2d

 **Maria Arroyo** Looking for a coronavirus update, Any word on if members will be receiving a credit on the monthly membership dues, should we freeze our accounts until the Gym opens again
Like · Reply · 2d

 **Monse B.**
Brooklyn, Brooklyn, NY
👥 144 friends
⭐ 2 reviews

⭐⭐⭐⭐⭐ 3/16/2020


At any other time, I'd give at least 3 stars because it's a decent gym, close to my home and I get what I need from it -- basic machines and clean environment.

However, I'm kind of appalled with the way they've handled the COVID-19 pandemic. It took a shut down from the city for them to finally close their doors and when they did -- they've offered no information on how they're planning to handle memberships during this time. Even the announcement is in tiny print on their site as if they're hoping no one notices!

What are you all planning to do about memberships? Are you seriously hoping we'll all pay for a full time membership we're not using? This is especially strange behavior given that small, independently owned fitness studios have had to shut down as well and they have all been upfront about what they're planning on doing in the interim.

You owe it to your members to breakdown your plan and you've definitely have had time to come up with solutions. And you owe us more than , "we will miss all of our valued members and whenever this passes we'll be back at our clubs waiting for you." I refuse to continue paying you indefinitely for a service I'm not using, plain and simple. I wrote an email and will update this review when I hear back.


💡 Useful 2 😄 Funny 😎 Cool

 **Alexa R.**
Manhattan, New York, NY
👥 187 friends
⭐ 2 reviews

⭐⭐⭐⭐⭐ 3/19/2020 - 🔄 Updated review

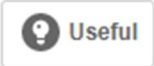


Nysc please freeze my membership. The gyms shut down Monday and no one emails back about freezing gym membership 4 days later . Unacceptable. And unacceptable to fire your entire staff.


💡 Useful 😄 Funny 1 😎 Cool

 **Xy L.**
Forest Hills, NY
0 friends
10 reviews

★★★★★ 3/16/2020

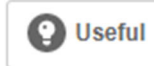


I think it's irresponsible to not answer anyone's email or calls, or post any information regarding membership fees during the virus closure. Town Sports Intl should NOT be charging members, especially at a time where it's significantly more financially punishing for individuals than for corporations. Members should not be forced to be human stimulus packages or unwilling income stream in this time of crisis. PLEASE post information on whether memberships are automatically suspended or not.

 **Savenna O.**
Manhattan, New York, NY
0 friends
2 reviews

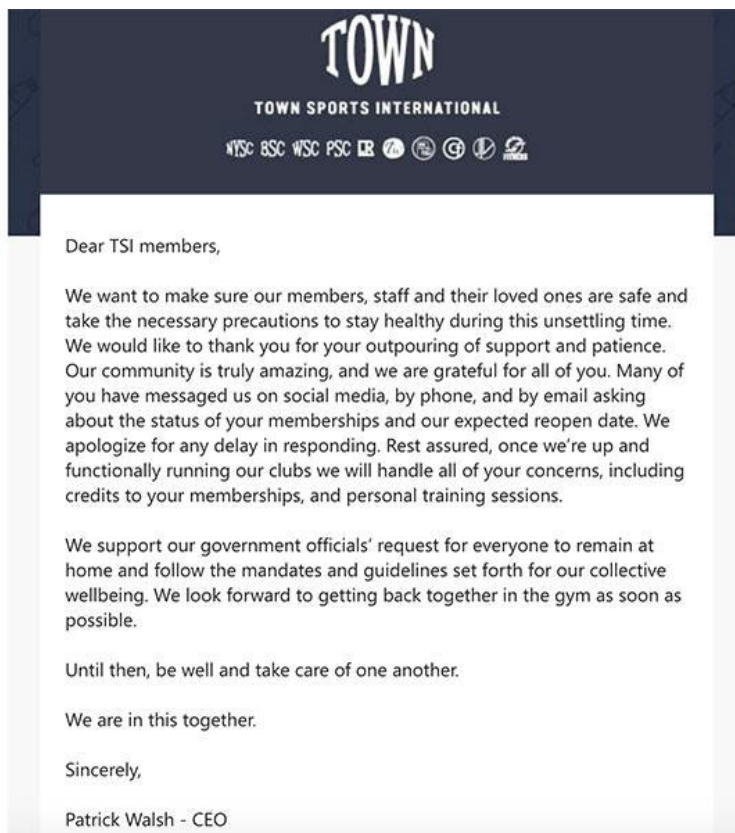
★★★★★ 3/21/2020

Are the gyms freezing accounts until further notice because of temporary close ? I tried to contact heretohelp email and it's just an automated message. I also emailed corporate and they never answered my question. I would hope that during these unfortunate and unforeseen circumstances that NYSC would respect their clients and freeze accounts in meantime.

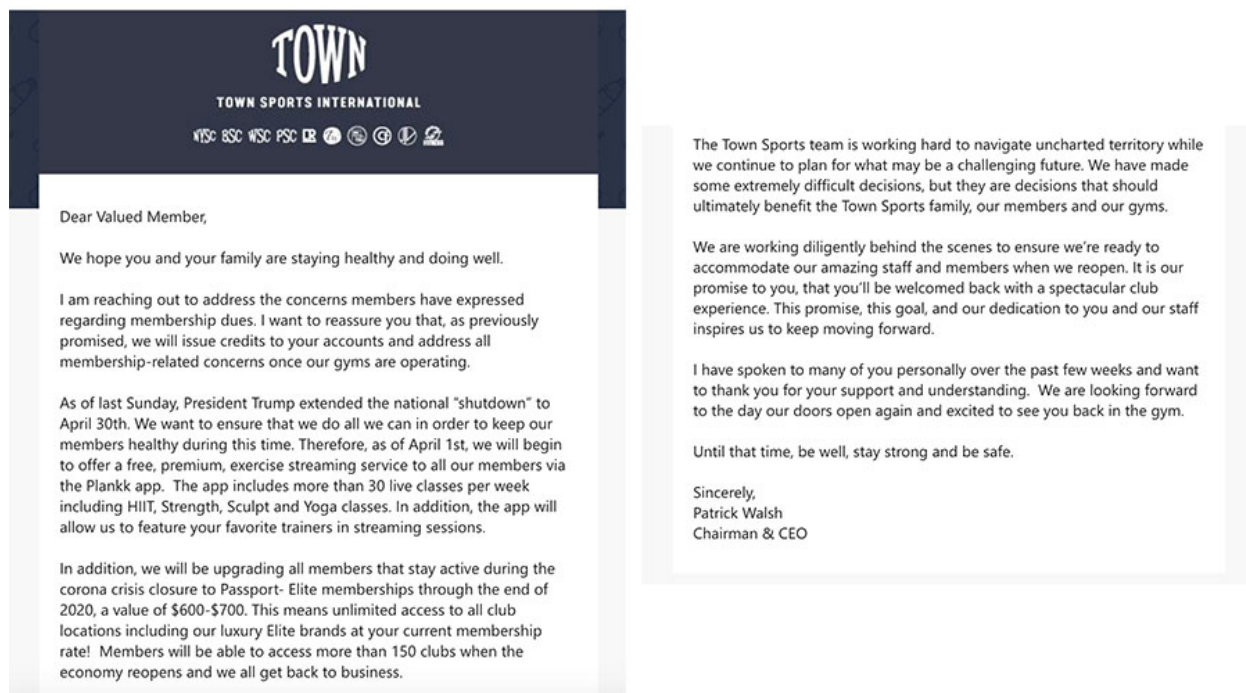
  

7. Despite these and hundreds of other pleas and cries for help, TSI has left customers effectively “dangling in the wind” to try to figure out how to protect themselves from being further charged for services not being provided.

8. On March 26, 2020, in response to TSI’s fraudulent, deceptive and unlawful practices, Plaintiff Mary Namorato initiated this class action. That same day, clearly in response, TSI issued a notice to members that incredibly **did not** state that TSI would suspend collection of membership fees because of gym closures, but instead vaguely stated that TSI would address members’ concerns at some unknown time in the future if or when its gyms reopen.



9. Following this announcement, additional complaints continued to pour in through social media and other online channels. Days later, on March 31, 2020, TSI issued another statement that still did not confirm refunds of membership fees or a freeze on the collection of future membership fees. Instead, TSI again vaguely stated that peoples' complaints would be addressed at some later, unknown and undefined time.



10. This response as well was met with derision by TSI's gym members.

11. In fact, a petition has been posted to Change.org demanding to: "Hold Town Sports International Holdings financially liable for holding accounts COVID-19." The petition further provides:

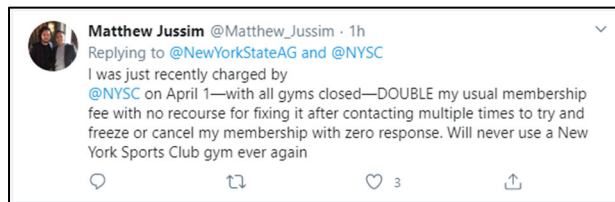
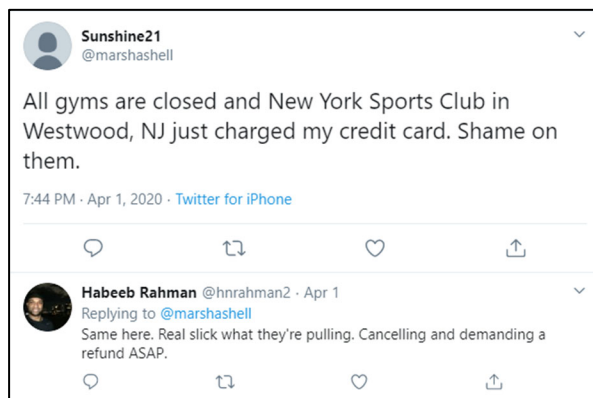
During this complicated and uncertain times, when many of us have lost their incomes and not only unable to use gym facilities, but simply [cannot] afford to pay for the memberships of such, Town Sports International Holdings, has chosen to not respond or take any responsibilities, actions or support to its customers. Not only it is not replying to emails, DM's and phone calls, it absolutely illegally continues charging our bank accounts and keeping us hostage to their memberships without any option to freeze or cancel. These actions are illegal and have to be addressed. Town Sports International Holdings has to be held accountable and responsible for reimbursing anyone who has reached out to cancel in the Month of March and the following months to come. And if it refuses so, it must be sued for its illegal actions of charging money without consent. Please join us during

this fight and sign the petition below. Together we can stand up to our rights and get the justice we all deserve.

To date, over **3,400** people have signed this petition demanding change.⁶

12. On April 1, 2020, the first of the month which marks the start of the majority of member billing cycles, TSI charged hundreds of thousands of members for their monthly membership fees. Understandably, TSI members were and remain furious that TSI is exploiting a pandemic to continue to charge members even though its gyms remain closed.

13. TSI members continue to seek help on Twitter and other social media platforms:



⁶ See <https://www.change.org/p/town-sports-international-holdings-hold-town-sports-international-holdings-financially-liable-for-holding-accounts-covid-19> (last accessed April 9, 2020).

14. Hundreds of TSI members have also filed complaints with the Attorney General's Offices of New York, Pennsylvania and the District of Columbia (and surely others as well). On April 3, 2020, those three AG offices collectively wrote to TSI demanding that this unlawful business practice cease immediately.⁷ The letter stated, in part, as follows:

On behalf of the State of New York, the Commonwealth of Pennsylvania, and the District of Columbia ("States"), we write to demand immediate changes to the unlawful manner in which [TSI] has responded to the mandatory closing of its health clubs due to the COVID-19 pandemic. Based on hundreds of complaints filed with our offices, it appears that TSI – which does business in our States as [NYSC, PSC, and WSC] – has violated multiple State laws by charging consumers membership dues for services TSI no longer offers, imposing punitively high cancellation and freezing fees that are unconscionable under the circumstances, misleading consumers about their rights to cancel or freeze their memberships, withholding information from consumers about how they can cancel or freeze their memberships, and refusing to honor cancellation requests.

The COVID-19 pandemic has plunged our country into an unprecedented public health and economic crisis. Thousands of people have died from COVID-19, hundreds of thousands are confirmed infected, millions of people have lost their jobs, millions of businesses are subject to mandatory closures, and we all face an uncertain future. We understand that TSI's business faced economic uncertainty prior to the spread of the pandemic, and we are sensitive to the fact that the mandatory closure of its clubs presents even further strains. But neither a national emergency nor dire financial straits relieves TSI of its obligation to follow the law. TSI's conduct is particularly disappointing because many TSI members may have lost their jobs or seen their income reduced, and need every penny to provide for their basic needs.

15. TSI has done nothing to remedy these issues since.

⁷ See April 3, 2020 correspondence of Letitia James, New York Attorney General, Josh Shapiro, Pennsylvania Attorney General, and Karl A. Racine, District of Columbia Attorney General at https://ag.ny.gov/sites/default/files/multistate_letter_to_town_sports_international.pdf (last accessed April 8, 2020).

16. TSI's conduct is particularly reprehensible as it is stealing hard-earned money its members now need more than ever to pay for the necessities of life – such as food and rent for themselves and their families – despite the fact that its gyms are closed and TSI is not able to provide the services for which it is charging customers.

17. Plaintiffs, together with the Class and Sub-Classes they seek to represent, bring this action to send a message that TSI's conduct is completely unacceptable. Plaintiffs seek declaratory, injunctive and monetary relief – in the greatest amount permitted by law – due to TSI's breach of contract, unjust enrichment and violations of New York General Business Law (“GBL”) §§349, 624; D.C. Consumer Protection Procedures Act §28-3901, *et seq.* (“DCCPPA”); Pennsylvania Unfair Trade Practices & Consumer Protection Law, Tit. 73 §201-1, *et seq.* (“PUTPCPL”); Connecticut Unfair Trade Practices Act, §42-110, *et seq.* (“CUTPA”); Maryland Consumer Protection Act, §13-101, *et seq.* (“MCPA”); New Jersey Consumer Fraud Act, §56:8-1, *et seq.* (“NJCFA”); New Jersey Admin. Code. §13:45A-25.6, *et seq.* (“NJ Health Club Contract Law”); Rhode Island Unfair Trade Practice and Consumer Protection Act, §6-13.1-1, *et seq.* (“RIUTPCPA”); Virginia Consumer Protection Act of 1977, §59.1-196, *et seq.* (“VCPA”); and Florida Deceptive and Unfair Trade Practices Act, Fla. Stat. Ann. § 501.201, *et seq.* (“FLDUTPA”).

JURISDICTION AND VENUE

18. The Court has diversity jurisdiction over this action pursuant to 28 U.S.C. § 1332(a)(1) because there is diversity of residence of the named parties. The Court also has diversity jurisdiction pursuant to the Class Action Fairness Act, 28 U.S.C. 1332(d), because the proposed Class has more than 100 members, contains at least one member of diverse citizenship from Defendants and the amount in controversy exceeds \$5 million.

19. The Court has personal jurisdiction over Defendants because Defendants are authorized to and do conduct substantial business in the Southern District of New York.

20. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b)(1), because a substantial part of the events giving rise to this action occurred in this District as Defendants' policies and practices were made and acted upon within this District.

21. Plaintiffs will be sending to Defendants a demand letter pursuant to Section 93A of the Mass. Consumer Protection Act, M.G.L.A. c. 93A §1, *et seq.* ("MGLA"), and will include additional claims under the MGLA at the appropriate time.

22. Plaintiffs will be sending to Defendants a demand letter pursuant to Section 1782 of the California Consumers Legal Remedies Act, Cal. Civ. Code § 1750, *et seq.* ("CLRA"), and will include additional claims under the CLRA at the appropriate time.

23. Following the commencement of this action, Plaintiffs will deliver a copy of the Complaint to the Connecticut Attorney General and Commissioner of Consumer Protection pursuant to CUTPA § 42-110g(c).

24. Following the commencement of this action, Plaintiffs will deliver a copy of the Complaint to the New Jersey Attorney General pursuant to NJCFA § 56:8-20.

25. Following the commencement of this action, Plaintiffs will deliver a copy of the Complaint to the Rhode Island Attorney General pursuant to RIUTPCPA § 6-13.1-5.2.

PARTIES

26. Plaintiff Mary Namorato is an adult resident of New York County, New York. Ms. Namorato has been a NYSC gym member from approximately January 2019 through the present.

27. Plaintiff Anna Molly is an adult resident of Kings County, New York. Ms. Molly has been a NYSC gym member from approximately 2015 through the present.

28. Plaintiff Farin Greber is an adult resident of Philadelphia County, Pennsylvania. Ms. Greber has been a PSC gym member from approximately 2001 through the present.

29. Plaintiff Judith Sosa is an adult resident of New Jersey. Ms. Sosa has been a NYSC gym member from approximately March 2018 through the present.

30. Plaintiff Jay Clarke is an adult resident of Maryland. Mr. Clarke has been a WSC member from approximately December 2015 to the present.

31. Plaintiff Larry Kernan is an adult resident of Massachusetts. Mr. Kernan has been a BSC member from approximately March 2018 to the present.

32. Defendant Town Sports International, LLC is a domestic limited liability company with its primary business being the running and operating of gyms under the brands New York Sports Clubs, Boston Sports Clubs, Washington Sports Clubs and Philadelphia Sports Clubs, and which has a principal place of business located at 5 Penn Plaza, 4th Floor, New York, New York 10001.

33. Defendant Town Sports International Holdings, Inc. d/b/a New York Sports Clubs is a foreign corporation incorporated in Delaware with its primary business being the running and operating of gyms under the brands New York Sports Clubs, Boston Sports Clubs, Washington Sports Clubs and Philadelphia Sports Clubs, and which has a principal place of business located at 1001 US North Highway 1, Suite 201, Juniper, Florida 33477.

FACTUAL ALLEGATIONS

I. OVERVIEW

A. Background

34. Town Sports International, LLC is one of the largest owners/operators of fitness clubs in the country with approximately 605,000 current members of approximately 186 gyms located in New York, Massachusetts, Washington, D.C., Pennsylvania, Connecticut, Maryland, New Jersey, Rhode Island, Virginia, California and Florida.⁸ NYSC is far and away TSI's largest brand with 99 locations.

35. TSI's annual revenue is approximately \$466 million per year, the vast bulk of which comes from membership fees charges. According to TSI's website, memberships range in rate from approximately \$30/mo. to \$120/mo. Upon information and belief, nearly all of TSI's memberships are paid through credit cards maintained on file and subject to automatic monthly or annual charges.

36. TSI and its customers enter into contracts (verbal and/or written) that require TSI to provide access to its gym facilities in exchange for these monthly membership dues. Accordingly, to the extent a customer does not make its membership dues payments, TSI will revoke that customer's gym access. Upon information and belief, TSI regularly revokes gym access to members who stop paying membership dues.

37. Moreover, at the time of enrollment, TSI has a reported practice in which its sales representatives verbally state the terms of membership and obtain customer agreement to those terms. These sales representatives state the terms to be that the customer will pay a monthly (or annual) membership fee in exchange for gym services and access, and that the customer can

⁸ Information based on TSI's 2019 Annual Report.

terminate the contract at any time. The sales representative will then ask the customer to sign an electronic pad.

B. TSI's Response to the Novel Coronavirus/COVID-19 Pandemic

38. In February and early-March 2020, the novel coronavirus pandemic began its sweep through the United States. As of the date of this filing, throughout the country there have been over 395,000 reported positive tests and more than 12,700 deaths. New York State has been hit particularly hard and is widely considered the domestic epicenter of this crisis. New York State has had more than 138,000 positive tests and over 6,200 deaths.

39. This existential crisis has plunged the entire country into an economic recession. Reports have stated that the coronavirus has result in nearly 17 million lost jobs,⁹ and unemployment filings and inquiries are currently reaching unprecedented levels. The federal government has already passed a \$2 trillion economic relief package, and it is weighing additional multi-trillion-dollar spending bills to save the economy.

40. Since the coronavirus outbreak, numerous states have issued executive orders requiring closure of all gyms and fitness centers. Federal guidelines also emphatically urge social distancing and avoidance of unnecessary gatherings or trips in order to slow the spread of this deadly virus – in effect requiring closure of gyms and fitness centers.¹⁰

⁹ See <https://www.npr.org/sections/coronavirus-live-updates/2020/04/09/830216099/6-6-million-more-file-for-unemployment-as-coronavirus-keeps-economy-shut> (last accessed April 9, 2020).

¹⁰ See, e.g., N.Y. Exec. Order No. 202.3, available at https://www.governor.ny.gov/sites/governor.ny.gov/files/atoms/files/EO_202.3.pdf (last accessed April 8, 2020); Pa. Exec. Order, available at <https://www.scribd.com/document/452416027/20200319-TWW-COVID-19-Business-Closure-Order> (last accessed April 8, 2020); D.C. Mayor's Order No. 2020-048, available at <https://mayor.dc.gov/sites/default/files/dc/sites/mayormb/publication/attachments/MO-Prohibition-on-Mass-Gatherings-During-Public-Health-Emergency.pdf> (last accessed April 8, 2020).

41. Amid this health and economic crisis, TSI announced that it was closing all its gyms, though this happened at some staggered period throughout March 2020. For instance, all NYSC gyms were closed effective 8:00 p.m. on March 16, 2020 pending further notification.

42. NYSC's website states:

Emergency Alert!

In adherence with State and Federal guidelines concerning COVID-19, also known as Coronavirus, we will be temporarily closing all of our NY, NJ and Connecticut clubs starting 8PM on March 16th until further guidance from the state government. We will miss all of our valued members and whenever this passes we'll be back at our clubs waiting for you.

43. The websites for BSC, PSC and WSC all state:

Emergency Alert!

In adherence with State and Federal guidelines concerning COVID-19, also known as Coronavirus, we will be temporarily closing all of our clubs starting 8PM on March 16th until further guidance from the state government. We will miss all of our valued members and whenever this passes we'll be back at our clubs waiting for you. [Read More.](#)

44. The PBSC website states:

Emergency Alert!

In adherence with State and Federal guidelines concerning COVID-19, also known as Coronavirus, we will be temporarily closing all of our clubs starting March 20th until further guidance. We will miss all of our valued members and whenever this passes we'll be back at our clubs waiting for you. [Read More.](#)

45. However, despite closing its gyms, TSI has continued to charge customers for membership dues, has retained the portion of previously-received membership dues which were unused *and* has made it excessively difficult for customers to cancel their memberships during this difficult time.

46. TSI has engaged in fraudulent consumer conduct in that it misrepresented to customers that it would provide gym services and gym accessibility in exchange for membership

dues. However, it has taken and/or retained membership dues at a time when it is not providing gym services or gym accessibility.

47. TSI has breached its contracts with its customers by taking, accepting and/or retaining membership dues and failing to provide the contractually agreed-upon services.

48. TSI has also refused to permit gym members to cancel their memberships.

49. Despite the repeated and numerous complaints of TSI's unlawful charges and the statement issued by the AGs of New York, Pennsylvania and the District of Columbia, TSI still has not suspended the collection on membership fees and continues to charge members' accounts knowing full well that many of its members are suffering financially during a crisis.

II. CLASS REPRESENTATIVES

A. Mary Namorato

50. On or around January 28, 2019, Ms. Namorato joined the NYSC located at Grand Central Station in New York City (the "Grand Central Station Location").

51. Ms. Namorato enrolled by visiting the Grand Central Station Location in person and meeting with a sales representative named Christopher Starr.

52. Mr. Starr informed Ms. Namorato that TSI would offer her a particular type of gym membership for \$69.99 per month, which would be automatically billed to her credit card.

53. On March 1, 2020, TSI charged Ms. Namorato \$69.99 for her monthly use and access to TSI's gyms. Ms. Namorato paid this amount.

54. On March 16, 2020, and through to the present and continuing indefinitely, TSI has ceased providing Ms. Namorato any gym services or gym accessibility.

55. TSI has not returned and has retained Ms. Namorato's payment for services during a period in which TSI has not provided the agreed-upon services.

56. On March 17, 2020, Ms. Namorato emailed TSI at their unintentionally ironically named email address: HereToHelp@tsiclubs.com. Ms. Namorato asked for information concerning suspension of membership charges while the gyms were closed. No one from TSI ever responded.

57. Ms. Namorato has also filed several similar complaints via TSI's Facebook page. However, TSI has refused to provide Ms. Namorato any information about how it will handle her cancellation request or whether it will ensure she is not charged and/or refunded for unused membership fees.

58. As a result, Ms. Namorato sought help from the New York City Public Advocate's office and the New York State Attorney General's office ("NY AG"), submitting complaints to each office regarding TSI's conduct.

59. Ms. Namorato was informed by the NY AG's office that – despite the NY AG's office insistence to TSI's senior leadership that it was improper – **"New York Sports Club is not automatically freezing or cancelling memberships, is only permitting members to freeze or cancel their membership by mail, and freezes and cancellations are subject to certain fees."**

60. This conduct constitutes a common law breach of contract, unjust enrichment and fraudulent consumer conduct in violation of GBL §§349, 624.

B. Plaintiff Anna Molly

61. In or around 2015, Ms. Molly joined the NYSC located at 1630 E 15th Street, in Brooklyn, New York (the "Midwood Location").

62. Ms. Molly enrolled by visiting the Midwood Location in person and meeting with a sales representative who offered her a particular type of gym membership in exchange for a monthly membership fee, which would be automatically billed to her credit card.

63. On March 2 and April 2, 2020, TSI charged Ms. Molly \$56.95 for her monthly use and access to TSI's gyms. Ms. Molly paid these amounts.

64. On March 16, 2020, and through to the present and continuing indefinitely, TSI has ceased providing Ms. Molly any gym services or gym accessibility.

65. TSI has not returned and has retained Ms. Molly's payment for services during a period in which TSI has not provided the agreed-upon services.

66. Ms. Molly, like many workers across the country, has seen a dramatic reduction in her pay because of the economic impact the novel Coronavirus has had on the economy.

67. After TSI closed its gym locations, Ms. Molly repeatedly called the Midwood Location and sent text messages to a Manager from the Midwood Location in search of answers as to how TSI would be addressing membership fees and how she could cancel or freeze her membership since she could no longer afford the monthly membership fee. However, no TSI employee ever answered Ms. Molly's calls.

68. Ms. Molly also posted messages and sent direct messages to TSI via Twitter concerning the closure of TSI's gyms and how she could freeze or cancel her membership. Despite ignoring numerous posts and direct messages, a TSI employee did respond to one of Ms. Molly's social media messages and directed her to submit her concerns to heretohelp@tsiclubs.com.

69. On March 19, 2020, Ms. Molly emailed heretohelp@tsiclubs.com and stated:

Hello,

I am loosing my job due to COVID and need to know how to either freeze this membership or cancel it as I am unable to cover April month.

My gym in Midwood Brooklyn is shut down, the manager is not responding to my texts. Your social media team ignoring my tweets and my DM messages.

I knew that your customer support wasn't great, but did not expect you'll leave your customers in the dark like this. Do you not have a crisis management team? Where is your response, besides we are monitoring. There is nothing to monitor anymore. This is real and we need your actions.

Please get back to me at your earliest convenience as this is not nice that I can't get in touch with anyone for almost a week. Thank you.

Best regards,

Anna Molly (KISLITSINA)

70. TSI never responded to Ms. Molly's March 19, 2020 email.

71. On March 26, 2020, Ms. Molly sent a letter via certified mail to TSI regarding her complaints and concerns that were outlined in her March 19 email to heretohelp@tsiclubs.com.

TSI has not responded to Ms. Molly's letter.

72. Ms. Molly has been charged membership fees for March and April which have not been used and have not been refunded.

73. This conduct constitutes a common law breach of contract, unjust enrichment and fraudulent consumer conduct in violation of GBL §§349, 624.

C. Plaintiff Farin Greber

74. In or around 2001, Ms. Greber joined the PSC located at 220-250 S. 5th Street in Philadelphia, Pennsylvania (the "Society Hill Location").

75. Ms. Greber enrolled by visiting the Society Hill Location and speaking with a TSI representative who offered her a particular type of gym membership in exchange for a monthly membership fee, which would be automatically billed to her credit card.

76. On March 1 and April 1, 2020, TSI charged Ms. Greber \$19.99 for her monthly use and access to TSI's gyms. Ms. Greber paid these amounts.

77. On March 16, 2020, and through to the present and continuing indefinitely, TSI has ceased providing Ms. Greber any gym services or gym accessibility.

78. TSI has not returned and has retained Ms. Greber's payment for services during a period in which TSI has not provided the agreed-upon services.

79. Ms. Greber has been charged membership fees for March and April which have not been used and have not been refunded.

80. After TSI closed its gym locations, Ms. Greber called the Society Hill Location multiple times to request a partial refund of her unused March 2020 membership fees and to complain about TSI continuing to charge her credit card even though TSI was no longer providing her access to its gym locations. However, Ms. Greber's calls were repeatedly ignored and no one from TSI ever responded to the one voice message she was able to leave.

81. This conduct constitutes a common law breach of contract, unjust enrichment and fraudulent consumer conduct in violation of PUTPCPL.

D. Plaintiff Judith Sosa

82. On or around March 2018, Ms. Sosa joined the NYSC located at 600 Bayonne Crossing Way in Bayonne, New Jersey (the "Bayonne Location").

83. Ms. Sosa enrolled by visiting the Bayonne Location in person and spoke to a TSI employee.

84. The TSI employee informed Ms. Sosa that TSI would offer her a particular type of gym membership for a monthly payment, which would be automatically billed to her credit card. Ms. Sosa's current membership fee rate is \$50.10 per month.

85. On March 2 and April 2, 2020, TSI charged Ms. Sosa \$50.10 for her monthly use and access to TSI's gyms. Ms. Sosa paid these amounts.

86. On March 16, 2020, and through to the present and continuing indefinitely, TSI has ceased providing Ms. Sosa any gym services or gym accessibility.

87. TSI has not returned and has retained Ms. Sosa's payment for services during a period in which TSI has not provided the agreed-upon services.

88. Ms. Sosa has been charged membership fees for March and April which have not been used and have not been refunded.

89. On March 24, 2020, Ms. Sosa visited TSI's webpage and submitted a complaint via an online contact box to request a partial refund of her March membership fees because TSI was no longer providing Ms. Sosa access to their gym locations. TSI never responded to Ms. Sosa.

90. That same day, Ms. Sosa then attempted call a customer service number maintained by TSI, but no one answered Ms. Sosa's call.

91. This conduct constitutes a common law breach of contract, unjust enrichment and fraudulent consumer conduct in violation of NJCFA and NJ Health Club Contract Law.

E. Plaintiff Jay Clarke

92. On or around December 29, 2015, Mr. Clarke joined the WSC located at 10400 Old Georgetown Rd., Bethesda, Maryland (the "Bethesda Location").

93. Mr. Clarke enrolled by visiting Bethesda Location in person and meeting with a sales representative who offered Mr. Clarke a particular type of gym membership for \$29.99 per month, which would be automatically billed to his credit card.

94. On March 1 and April 1, 2020, TSI charged Mr. Clarke \$29.99 for his monthly use and access to TSI's gyms. Mr. Clarke paid these amounts.

95. On March 16, 2020, and through to the present and continuing indefinitely, TSI has ceased providing Mr. Clarke any gym services or gym accessibility.

96. TSI has not returned and has retained Mr. Clarke's payment for services during a period in which TSI has not provided the agreed-upon services.

97. Mr. Clarke has repeatedly attempted to contact TSI to freeze his account, including by calling the Bethesda Location, submitting inquiries through a fill-in form on WSC's webpage and by emailing the accounts Memberhelp@tsiclubds.com and heretohelp@washingtonsportsclubs.com. However, Mr. Clarke's calls were never answered and he only received automated responses to his emails and inquiries submitted on WSC's webpage.

98. Mr. Clarke has been charged membership fees for March and April which have not been used and have not been refunded.

99. This conduct constitutes a common law breach of contract, unjust enrichment and fraudulent consumer conduct in violation of MCPA.

F. Plaintiff Larry Kernan

100. In or around March 2018, Mr. Kernan joined the BSC located at 475 Bedford Street in Lexington, Massachusetts (the "Lexington Location").

101. Mr. Kernan enrolled by visiting Lexington Location in person and meeting with a sales representative who offered Mr. Kernan a particular type of gym membership for \$24.99 per month, which would be automatically billed to his credit card.

102. On March 1 and April 1, 2020, TSI charged Mr. Kernan \$24.99 for his monthly use and access to TSI's gyms. Mr. Kernan paid these amounts.

103. On March 16, 2020, and through to the present and continuing indefinitely, TSI has ceased providing Mr. Kernan any gym services or gym accessibility.

104. TSI has not returned and has retained Mr. Kernan's payment for services during a period in which TSI has not provided the agreed-upon services.

105. On April 4, 2020 Mr. Kernan, sent an email to memberhelp@tsiclubs.com stating, "Please freeze my membership, while Lexington BSC is closed." To date, no one from TSI has responded to Mr. Kernan's email to memberhelp@tsiclubs.com.

106. Later that same day, Mr. Kernan sent an email to memberservices@tsiclubs.com and requested a copy of his membership contract which he could no longer access through his online membership account. On April 6, 2020, TSI's Member Services team responded to Mr. Kernan's email but did not address his request to freeze his membership.

107. Mr. Kernan has been charged membership fees for March and April which have not been used and have not been refunded.

108. This conduct constitutes a common law breach of contract, unjust enrichment and fraudulent consumer conduct in violation of MGLA.

CLASS ACTION ALLEGATIONS

109. Plaintiffs bring their claims as a class action pursuant to Fed. R. Civ. P. 23 on behalf of themselves and on behalf of all other similarly situated persons in the following class and sub-classes:

- who were charged and/or not refunded fees for a period in which services were not provided (the “Class”);
- who reside in New York and/or utilize TSI’s services in New York and were charged fees for a period in which services were not provided (the “New York Sub-Class”);
- who reside in the District of Columbia and/or utilize TSI’s services in the District of Columbia and were charged fees for a period in which services were not provided (the “D.C. Sub-Class”);
- who reside in Connecticut and/or utilize TSI’s services in Connecticut and were charged fees for a period in which services were not provided (the “Connecticut Sub-Class”);
- who reside in Florida and/or utilize TSI’s services in Florida and were charged fees for a period in which services were not provided (the “Florida Sub-Class”);
- who reside in Maryland and/or utilize TSI’s services in Maryland and were charged fees for a period in which services were not provided (the “Maryland Sub-Class”);
- who reside in New Jersey and/or utilize TSI’s services in New Jersey and were charged fees for a period in which services were not provided (the “New Jersey Sub-Class”);
- who reside in Pennsylvania and/or utilize TSI’s services in Pennsylvania and were charged fees for a period in which services were not provided (the “Pennsylvania Sub-Class”);
- who reside in Rhode Island and/or utilize TSI’s services in Rhode Island and were charged fees for a period in which services were not provided (the “Rhode Island Sub-Class”);
and

- who reside in Virginia and were charged fees for a period in which services were not provided (the “Virginia Sub-Class”).

(all sub-classes together referred to as the “Sub-Classes”).

110. The claims of the Class and Sub-Classes are the same as or substantially similar to those of Plaintiffs, and the Class and Sub-Classes, like Plaintiffs, have been subject to the same unlawful conduct.

111. As a result of Defendants’ conduct as alleged herein, Defendants have engaged in violations of GBL §349 and §624, DCCPPA, PUTPCPL, CUTPA, MCPA, NJCFA, RIUTPCPA, VCPA and FLDUTPA, as well as engaged in common law breach of contract and unjust enrichment.

112. Defendants’ violations of GBL §349 and §624, DCCPPA, PUTPCPL, CUTPA, MCPA, NJCFA, RIUTPCPA, VCPA and FLDUTPA, common law breach of contract and unjust enrichment have been willful, repeated, knowing, intentional and without a good-faith basis, and have significantly damaged Plaintiffs, the Class and the Sub-Classes.

113. As a result of Defendants’ conduct, Defendants are liable to Plaintiffs, the Class and the Sub-Classes for the full amount of any economic and monetary loss suffered by Plaintiffs, the Class and the Sub-Classes, the full value of the services Plaintiffs, the Class and the Sub-Classes have been denied and/or not had access to and any and all other actual, statutory or other applicable damages.

114. Certification of the claims of the Class and Sub-Classes as a class action is the most efficient and economical means of resolving the questions of law and fact common to Plaintiffs’ claims and the claims of the Class and Sub-Classes.

115. Plaintiffs have standing to seek such relief because of the adverse effect that Defendants' unlawful conduct has had on them individually and on members of the Class and Sub-Classes.

116. Without class certification, the same evidence and issues would be subject to re-litigation in a multitude of individual lawsuits with an attendant risk of inconsistent adjudications and conflicting obligations.

117. Certification of the Class and Sub-Classes is the most efficient and judicious means of presenting the evidence and arguments necessary to resolve such questions for Plaintiffs, the Class, the Sub-Classes and Defendants.

118. Plaintiffs' claims raise questions of law and fact common to the Class and Sub-Classes. Among these questions are:

- a. Whether Defendants contracted with Plaintiffs, the Class and the Sub-Classes to provide gym services;
- b. Whether Defendants charged Plaintiffs, the Class and Sub-Classes for services which were not provided;
- c. Whether Defendants retained payments from Plaintiffs, the Class and the Sub-Classes for services which were not provided;
- d. Whether Defendants engaged in deceptive and/or misleading consumer conduct towards Plaintiffs, the Class and Sub-Classes;
- e. Whether Defendants' unlawful conduct towards Plaintiffs the Class and the Sub-Classes constitutes a violation of GBL §349 and §624, DCCPPA, PUTPCPL, CUTPA, MCPA, NJCFA, RIUTPCPA, VCPA and FLDUTPA;
- f. Whether Defendants' unlawful conduct towards Plaintiffs the Class and Sub-Classes constitutes a breach of contract; and

- g. Whether Defendants' unlawful conduct towards Plaintiffs the Class and Sub-Classes constitutes unjust enrichment; and
- h. Whether Defendants' conduct was and/or has been intentional.

119. These common questions of law and fact arise from the same course of events, and each member of the Class and Sub-Classes will make similar legal and factual arguments to prove liability.

120. Plaintiffs are members of the Class and/or Sub-Classes that they seek to represent.

121. Plaintiffs' claims are typical of the claims of the Class and Sub-Classes.

122. The relief Plaintiffs seek for the unlawful conduct complained of herein is also typical of the relief sought on behalf of the Class and Sub-Classes.

123. Plaintiffs' interests are co-extensive with those of the Class and Sub-Classes that they seek to represent.

124. Plaintiffs are willing and able to represent the Class and Sub-Classes fairly and to vigorously pursue their similar individual claims in this action.

125. Plaintiffs have retained counsel who are qualified and experienced in class action litigation, and who are able to meet the time and fiscal demands necessary to litigate a class action of this size and complexity.

126. Defendants have acted or refused to act on grounds generally applicable to the Class, making final injunctive and declaratory relief appropriate with respect to the Class and Sub-Classes.

127. Injunctive and declaratory relief is a significant component of the relief sought by Plaintiffs on behalf of themselves, the Class and the Sub-Classes.

128. The common issues of fact and law affecting Plaintiffs' claims and those of the members of the Class and Sub-Classes, including the common issues identified above, predominate over any issues affecting only individual claims.

129. The Class and Sub-Classes are so numerous that joinder of all members is impracticable. While the exact number of individuals applicable each Class is unknown at the present time, it is estimated that the Class, which encompasses all Sub-Classes, is comprised of at least 250,000 members.

FIRST CLAIM FOR RELIEF
(Breach of Contract)
On Behalf of Plaintiffs, the Class and the Sub-Classes

130. Plaintiffs, on behalf of themselves, the Class and the Sub-Classes, reallege and incorporate by reference all preceding paragraphs as if they were set forth again herein.

131. Defendants entered into contracts with Plaintiffs, the Class and the Sub-Classes to provide gym services and accessibility in exchange for monetary consideration.

132. As alleged herein, Defendants have breached their contracts with Plaintiffs, the Class and/or the Sub-Classes by failing to provide gym services and accessibility yet continuing to charge and/or retain membership dues.

133. As alleged herein, as a result of Defendants' breach, Plaintiffs, the Class and the Sub-Classes have suffered, and continue to suffer, damages, including, but not limited to, the membership dues charges and/retained.

134. Plaintiffs, on behalf of themselves, the Class and the Sub-Classes seek the maximum amount of damages available by law for Defendants' unlawful conduct.

SECOND CLAIM FOR RELIEF

(New York General Business Law §349)

On Behalf of Plaintiffs Namorato and Molly and the New York Sub-Class

135. Plaintiffs, on behalf of themselves, the Class and the Sub-Classes, reallege and incorporate by reference all preceding paragraphs as if they were set forth again herein.

136. As alleged herein, Defendants have been engaged, and continue to engage, in consumer-oriented conduct towards Plaintiffs, the Class and the New York Sub-Class that was and continues to be false, misleading and deceptive in a material way.

137. Plaintiffs, the Class and the New York Sub-Class justifiably relied on Defendants' misrepresentations that Defendants would provide gym services and gym accessibility in exchange for membership dues and/or fees, and that reliance manifested itself in Plaintiffs', the Class', and the New York Sub-Class' continued payment of membership fees.

138. As alleged herein, Defendants accepted and/or took from Plaintiffs, the Class and the New York Sub-Class monetary consideration but failed to provide gym services and gym accessibility.

139. Plaintiff, the Class and the New York Sub-Class suffered, and continue to suffer, injury and damages as a result of the deceptive conduct alleged herein, including, but not limited to:

- Loss of monies paid to Defendants for periods in which gym services and gym accessibility were not provided;
- Loss of monies paid to Defendants for periods after which a request for cancellation was made.

140. Defendants' conduct constitutes a willful violation of GBL §349.

141. Plaintiffs, on behalf of themselves, the Class and the New York Sub-Class, seek the maximum amount of damages available by law for Defendants' unlawful conduct.

THIRD CLAIM FOR RELIEF

(New York General Business Law §624)

On Behalf of Plaintiffs Namorato and Molly and the New York Sub-Class

142. Plaintiffs, on behalf of themselves, the Class and the Sub-Classes, reallege and incorporate by reference all preceding paragraphs as if they were set forth again herein.

143. GBL §624(1) provides that:

Every contract for services at a planned health club or a health club under construction shall, at the option of the buyer, be voidable in the event that the health club and the services to be provided pursuant to such contract are not available within one year from the date the contract is executed by the buyer.

144. Defendants violated this provision insofar as TSI has not permitted Plaintiffs and the members of the Class and New York Sub-Class to cancel and/or void their contracts.

145. GBL §624(3) provides that gym customers may cancel their memberships “[i]f the services cease to be offered as stated in the contract.”

146. Defendants violated this provision by refusing to cancel memberships despite ceasing to offer services as stated in the contract.

147. Plaintiffs, on behalf of themselves, the Class and the New York Sub-Class, seek the maximum amount of damages available by law for Defendants’ unlawful conduct.

FOURTH CLAIM FOR RELIEF

(D.C. Consumer Protection Procedures Act §§28-3901, *et seq.*)

On Behalf of the D.C. Sub-Class

148. Plaintiffs, on behalf of themselves, the Class and the Sub-Classes, reallege and incorporate by reference all preceding paragraphs as if they were set forth again herein.

149. As alleged herein, Defendants misrepresented, and continue to misrepresent, a material fact which has misled, and continues to mislead, Plaintiffs, the Class and the D.C. Sub-Class.

150. Upon information and belief, numerous members of the Class and D.C. Sub-Class reside in the District of Columbia.

151. Plaintiffs, the Class and the D.C. Sub-Class justifiably relied on Defendants' misrepresentations that Defendants would provide gym services and gym accessibility in exchange for membership dues and/or fees, and that reliance manifested itself in Plaintiffs', the Class' and the D.C. Sub-Class' continued payment of membership fees.

152. Plaintiffs, the Class and the D.C. Sub-Class suffered, and continue to suffer, injury and damages as a result of the deceptive conduct alleged herein, including, but not limited to:

- Loss of monies paid to Defendants for periods in which gym services and gym accessibility were not provided;
- Loss of monies paid to Defendants for periods after which a request for cancellation was made.

153. Defendants' conduct constitutes a willful violation of D.C. Consumer Protection Procedures Act §§28-3901, *et seq.*

FIFTH CLAIM FOR RELIEF
(Connecticut Unfair Trade Practices Act, §42-110, *et seq.*)
On Behalf of the Connecticut Sub-Class

154. Plaintiffs, on behalf of themselves, the Class and the Sub-Classes, reallege and incorporate by reference all preceding paragraphs as if they were set forth again herein.

155. As alleged herein, Defendants have been engaged, and continue to engage, in unfair and/or deceptive acts or practices or misrepresentations towards Plaintiffs, the Class and the Connecticut Sub-Class that were and continue to be false, misleading and deceptive in a material way.

156. Upon information and belief, numerous members of the Class and the Connecticut Sub-Class reside in Connecticut.

157. Plaintiffs, the Class and the Connecticut Sub-Class justifiably relied on Defendants' misrepresentations that Defendants would provide gym services and gym accessibility in exchange for membership dues and/or fees, and that reliance manifested itself in Plaintiffs', the Class' and the Connecticut Sub-Class' continued payment of membership fees.

158. Plaintiffs, the Class and the Connecticut Sub-Class suffered, and continue to suffer, injury and damages as a result of the deceptive conduct alleged herein, including, but not limited to:

- Loss of monies paid to Defendants for periods in which gym services and gym accessibility were not provided;
- Loss of monies paid to Defendants for periods after which a request for cancellation was made.

159. Defendants' conduct constitutes a willful violation of Connecticut Unfair Trade Practices Act, §42-110, *et seq.*

SIXTH CLAIM FOR RELIEF
(Maryland Consumer Protection Act, §13-101, *et seq.*)
On Behalf of Plaintiff Clarke and the Maryland Sub-Class

160. Plaintiffs, on behalf of themselves, the Class and the Sub-Classes, reallege and incorporate by reference all preceding paragraphs as if they were set forth again herein.

161. As alleged herein, Defendants have been engaged, and continue to engage, in unfair and/or deceptive acts or practices or misrepresentations towards Plaintiffs, the Class and the Maryland Sub-Class that were and continue to be false, misleading and deceptive in a material way.

162. Upon information and belief, numerous members of the Class and the Maryland Sub-Class reside in Maryland.

163. Plaintiffs, the Class and the Maryland Sub-Class justifiably relied on Defendants' misrepresentations that Defendants would provide gym services and gym accessibility in exchange for membership dues and/or fees, and that reliance manifested itself in Plaintiffs', the Class' and the Maryland Sub-Class' continued payment of membership fees.

164. Plaintiffs, the Class and the Maryland Sub-Class suffered, and continue to suffer, injury and damages as a result of the deceptive conduct alleged herein, including, but not limited to:

- Loss of monies paid to Defendants for periods in which gym services and gym accessibility were not provided;
- Loss of monies paid to Defendants for periods after which a request for cancellation was made.

165. Defendants' conduct constitutes a willful violation of Maryland Consumer Protection Act, §13-101, *et seq.*

SEVENTH CLAIM FOR RELIEF
(New Jersey Consumer Fraud Act, §56:8-1, *et seq.*)
On Behalf of Plaintiff Sosa and the New Jersey Sub-Class

166. Plaintiffs, on behalf of themselves, the Class and the Sub-Classes, reallege and incorporate by reference all preceding paragraphs as if they were set forth again herein.

167. As alleged herein, Defendants have been engaged, and continue to engage, in unfair and/or deceptive acts or practices or misrepresentations towards Plaintiffs, the Class and the New Jersey Sub-Class that were and continue to be false, misleading and deceptive in a material way.

168. Upon information and belief, numerous members of the Class and New Jersey Sub-Class reside in New Jersey.

169. Plaintiffs, the Class and the New Jersey Sub-Class justifiably relied on Defendants' misrepresentations that Defendants would provide gym services and gym accessibility in exchange for membership dues and/or fees, and that reliance manifested itself in Plaintiffs', the Class' and the New Jersey Sub-Class' continued payment of membership fees.

170. Plaintiffs, the Class and the New Jersey Sub-Class suffered, and continue to suffer, injury and damages as a result of the deceptive conduct alleged herein, including, but not limited to:

- Loss of monies paid to Defendants for periods in which gym services and gym accessibility were not provided;
- Loss of monies paid to Defendants for periods after which a request for cancellation was made.

171. Defendants' conduct constitutes a willful violation of New Jersey Consumer Fraud Act, §56:8-1, *et seq.*

EIGHTH CAUSE OF ACTION
(New Jersey Admin. Code. §13:45A-25.6 *et seq.*)
On Behalf of Plaintiff Sosa and the New Jersey Sub-Class

172. Plaintiffs, on behalf of themselves, the Class and the Sub-Classes, reallege and incorporate by reference all preceding paragraphs as if they were set forth again herein.

173. Pursuant to N.J.A.C. §13:45A-25.6,

If, during the remaining term of a health club services contract that is subject to cancellation but for (b) above, the services and facilities contracted for become unavailable from the affiliated health club without additional expense and the originating health club receives notice from the member to that effect, the originating health club shall refund to the member, within 30 days of receipt of notice, the pro rata portion of the contract price paid to the originating health club that relates to the portion of the contract

term for which the services and facilities are unavailable and the member shall have no further obligation under the contract.

174. As alleged herein, services and facilities contracted for from Defendants have become unavailable, yet Defendants continue to charge for services and/or refuse to refund payments for such unprovided services.

175. As alleged herein, Defendants are refusing to cancel membership contracts and/or refusing to refund payments despite customer requests.

176. Plaintiffs, the Class and the New Jersey Sub-Class suffered, and continue to suffer, injury and damages as a result of the deceptive conduct alleged herein, including but not limited to the pro rata amount of all charges made to their accounts since TSI closed its gym locations on or around March 16, 2020.

177. Defendants' conduct constitutes a willful violation of N.J.A.C. §13:45A-25.6, *et seq.*

NINTH CLAIM FOR RELIEF
(Rhode Island Unfair Trade Practice and Consumer Protection Act, §6-13.1-1, *et seq.*)
On Behalf of the Rhode Island Sub-Class

178. Plaintiffs, on behalf of themselves, the Class and the Sub-Classes, reallege and incorporate by reference all preceding paragraphs as if they were set forth again herein.

179. As alleged herein, Defendants have been engaged, and continue to engage, in unfair and/or deceptive acts or practices or misrepresentations towards Plaintiffs, the Class and the Rhode Island Sub-Class that were and continue to be false, misleading and deceptive in a material way.

180. Upon information and belief, numerous members of the Class and Rhode Island Sub-Class reside in Rhode Island.

181. Plaintiffs, the Class and the Rhode Island Sub-Class justifiably relied on Defendants' misrepresentations that Defendants would provide gym services and gym accessibility in exchange for membership dues and/or fees, and that reliance manifested itself in Plaintiffs', the Class' and the Rhode Island Sub-Class' continued payment of membership fees.

182. Plaintiffs, the Class and the Rhode Island Sub-Class suffered, and continue to suffer, injury and damages as a result of the deceptive conduct alleged herein, including, but not limited to:

- Loss of monies paid to Defendants for periods in which gym services and gym accessibility were not provided;
- Loss of monies paid to Defendants for periods after which a request for cancellation was made.

183. Defendants' conduct constitutes a willful violation of Rhode Island Unfair Trade Practice and Consumer Protection Act, §6-13.1-1, *et seq.*

TENTH CLAIM FOR RELIEF
(Virginia Consumer Protection Act of 1977, §59.1-196, *et seq.*)
On Behalf of the Virginia Sub-Class

184. Plaintiffs, on behalf of themselves, the Class and the Sub-Classes, reallege and incorporate by reference all preceding paragraphs as if they were set forth again herein.

185. As alleged herein, Defendants have been engaged, and continue to engage, in unfair and/or deceptive acts or practices or misrepresentations towards Plaintiffs, the Class and the Virginia Sub-Class that were and continue to be false, misleading and deceptive in a material way.

186. Upon information and belief, numerous members of the Class and Virginia Sub-Class reside in Virginia.

187. Plaintiffs, the Class and the Virginia Sub-Class justifiably relied on Defendants' misrepresentations that Defendants would provide gym services and gym accessibility in exchange for membership dues and/or fees, and that reliance manifested itself in Plaintiffs', the Class' and the Virginia Sub-Class' continued payment of membership fees.

188. Plaintiffs, the Class and the Virginia Sub-Class suffered, and continue to suffer, injury and damages as a result of the deceptive conduct alleged herein, including, but not limited to:

- Loss of monies paid to Defendants for periods in which gym services and gym accessibility were not provided;
- Loss of monies paid to Defendants for periods after which a request for cancellation was made.

189. Defendants' conduct constitutes a willful violation of Virginia Consumer Protection Act of 1977, §59.1-196, *et seq.*

ELEVENTH CLAIM FOR RELIEF
(Florida Deceptive and Unfair Trade Practices Act, Fla. Stat. Ann. § 501.201, *et seq.*)
On Behalf of the Florida Sub-Class

190. Plaintiffs, on behalf of themselves, the Class and the Sub-Classes, reallege and incorporate by reference all preceding paragraphs as if they were set forth again herein.

191. As alleged herein, Defendants have been engaged, and continue to engage, in unfair and/or deceptive acts or practices or misrepresentations towards Plaintiffs, the Class and the Florida Sub-Class that were and continue to be false, misleading and deceptive in a material way.

192. Upon information and belief, numerous members of the Class and Florida Sub-Class reside in Florida.

193. Plaintiffs, the Class and the Florida Sub-Class justifiably relied on Defendants' misrepresentations that Defendants would provide gym services and gym accessibility in exchange for membership dues and/or fees, and that reliance manifested itself in Plaintiffs', the Class' and Florida Sub-Class' continued payment of membership fees.

194. Plaintiffs, the Class and the Florida Sub-Class suffered, and continue to suffer, injury and damages as a result of the deceptive conduct alleged herein, including, but not limited to:

- Loss of monies paid to Defendants for periods in which gym services and gym accessibility were not provided;
- Loss of monies paid to Defendants for periods after which a request for cancellation was made.

195. Defendants' conduct constitutes a willful violation of the FLDUTPA.

TWELFTH CLAIM FOR RELIEF
(Pennsylvania Unfair Trade Practices & Consumer Protection Law, Tit. 73 §201-1, *et seq.*)
On Behalf of Plaintiff Greber and the Pennsylvania Sub-Class

196. Plaintiffs, on behalf of themselves, the Class and the Sub-Classes, reallege and incorporate by reference all preceding paragraphs as if they were set forth again herein.

197. Plaintiffs, the Class and the Pennsylvania Sub-Class purchased goods and/or services from Defendants primarily for their personal use.

198. As alleged herein, Defendants have been engaged, and continue to engage, in unfair and/or deceptive acts or practices or misrepresentations towards Plaintiffs, the Class and Pennsylvania Sub-Class that were and continue to be false, misleading and deceptive in a material way.

199. Upon information and belief, numerous members of the Class and Pennsylvania Sub-Class reside in Pennsylvania.

200. Plaintiffs, the Class and Pennsylvania Sub-Class justifiably relied on Defendants' misrepresentations that Defendants would provide gym services and gym accessibility in exchange for membership dues and/or fees, and that reliance manifested itself in Plaintiffs', the Class' and the Pennsylvania Sub-Class' continued payment of membership fees.

201. Plaintiffs, the Class and the Pennsylvania Sub-Class suffered, and continue to suffer, injury and damages as a result of the deceptive conduct alleged herein, including, but not limited to:

- Loss of monies paid to Defendants for periods in which gym services and gym accessibility were not provided;
- Loss of monies paid to Defendants for periods after which a request for cancellation was made.

202. Defendants' conduct constitutes a willful violation of Pennsylvania Unfair Trade Practices & Consumer Protection Law, Tit. 73 §201-1, *et seq.*

THIRTEENTH CLAIM FOR RELIEF
(Unjust Enrichment)
On Behalf of Plaintiffs, the Class and the Sub-Classes

203. Plaintiffs, on behalf of themselves, the Class and the Sub-Classes, reallege and incorporate by reference all preceding paragraphs as if they were set forth again herein.

204. Defendants promised Plaintiffs, the Class and the Sub-Classes that they would provide gym services and gym accessibility in exchange for membership dues and/or fees.

205. Plaintiffs, the Class and Sub-Classes justifiably relied on Defendants' promise that Defendants would provide gym services and gym accessibility in exchange for membership dues and/or fees, and that reliance manifested itself in Plaintiffs', the Class' and Sub-Classes' continued payment of membership fees.

206. Permitting Defendants to retain the monies they received from the collection of membership dues and/or fees for periods of time where Defendants have not provided gym services and gym accessibility in exchange for those membership dues and/or fees would violate notions of good conscience and equity and, thus, Defendants should be required to remit to Plaintiffs, the Class and the Sub-Classes the monies they received.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs, on behalf of themselves, the Class and the Sub-Classes, respectfully requests that this Court:

- A. Declare that the practices complained of herein are unlawful;
- B. Enjoin Defendants from continuing to engage in unlawful practices;
- C. Enjoin Defendants from retaliating against Plaintiffs and members of the Class and Sub-Classes;
- D. Certify this action as a class action pursuant to Fed. R. Civ. P. 23;
- E. Designate Plaintiffs as representatives of the Class and the Sub-Classes;
- F. Designate Plaintiffs' counsel as counsel of record for the Class and the Sub-Classes;
- G. Determine the damages sustained by Plaintiffs, the Class and the Sub-Classes as a result of Defendants' unlawful conduct, and award those damages against Defendants and in favor of the Plaintiffs, the Class and the Sub-Classes, plus such pre-judgment and post-judgment interest as may be allowed;
- H. Award Plaintiffs, the Class and the Sub-Classes any applicable statutory damages;
- I. Award Plaintiffs, the Class and the Sub-Classes any and all other applicable damages;

J. Award Plaintiffs, the Class and the Sub-Classes their reasonable attorneys' fees and costs; and

K. Grant Plaintiffs, the Class and the Sub-Classes such other and further relief that the Court deems just and proper.

DEMAND FOR JURY TRIAL

Plaintiffs, on behalf of themselves, the Class and the Sub-Classes, hereby demand a trial by jury on all issues of fact and damages.

Dated: April 9, 2020
New York, New York

Respectfully submitted,

WIGDOR LLP

By: 

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