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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO

11 ILENE MORENO and
12 CHERYL JAMES-WARD,
individually and on behalf of all others
13 similarly situated,
14 Plaintiffs,
15 vs.
16 DISNEY INTERACTIVE STUDIOS, INC.,
a California corporation; and
17 DOES 1-50, inclusive,
18 Defendants.

CASE NO. 37-2019-00039785-CU-BT-CTL
CLASS ACTION
COMPLAINT FOR:
(1) VIOLATION OF THE CALIFORNIA
AUTOMATIC RENEWAL LAW
[Bus. & Prof. Code, § 17600 et seq.];
(2) SOLICITATION OF PAYMENT FOR
GOODS NOT ORDERED
[Civ. Code, § 1716];
(3) VIOLATION OF THE CALIFORNIA
CONSUMERS LEGAL REMEDIES ACT
[Civ. Code, § 1750 et seq.]; and
(4) UNFAIR COMPETITION
[Bus. & Prof. Code, § 17200 et seq.].
DEMAND FOR JURY TRIAL

ELECTRONICALLY FILED
Superior Court of California,
County of San Diego
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Clerk of the Superior Court
By Maria Acevedo, Deputy Clerk

1 **INTRODUCTION**

2 1. This class action complaint alleges that defendant Disney Interactive Studios, Inc.
3 (“Disney”) violates California law in connection with a subscription program operated under the
4 name Disney Movie Club (“DMC”). Among other things, Disney enrolls consumers in automatic-
5 renewal or continuous service subscriptions without providing the “clear and conspicuous”
6 disclosures mandated by California law; posts charges to consumers’ credit or debit cards for
7 purported automatic renewal or continuous service subscriptions without first obtaining the
8 consumers’ affirmative consent to an agreement containing the requisite clear and conspicuous
9 disclosures; and solicits payment of money for goods that consumers did not order. This course of
10 conduct violates the California Automatic Renewal Law (Bus. & Prof. Code, § 17600 et seq.)
11 (“ARL”), California’s statutory prohibition on soliciting payment for unordered goods or services
12 (Civ. Code, § 1716), the Consumers Legal Remedies Act (Civ. Code, § 1750 et seq.) (“CLRA”),
13 and the Unfair Competition Law (Bus. & Prof. Code, § 17200 et seq.) (“UCL”).

14 **THE PARTIES**

15 2. Plaintiff Ilene Moreno (“Moreno”) is an individual residing in San Diego County,
16 California.

17 3. Plaintiff Cheryl James-Ward (“James-Ward”) is an individual residing in San
18 Diego County, California.

19 4. Plaintiffs are informed and believe and thereon allege that defendant Disney
20 Interactive Studios, Inc. is a California corporation that does business in San Diego County,
21 including the marketing and sale of Disney movies and other merchandise.

22 5. Plaintiffs do not know the names of the defendants sued as DOES 1 through 50 but
23 will amend this complaint when that information becomes known. Plaintiffs allege on information
24 and belief that each of the DOE defendants is affiliated with the named defendant in some respect
25 and is in some manner responsible for the wrongdoing alleged herein, either as a direct participant,
26 or as the principal, agent, successor, alter ego, or co-conspirator of or with one or more of the
27 other defendants. For ease of reference, Plaintiffs will refer to the named defendant and the DOE
28 defendants collectively as “Defendants.”

1 Moreno's debit card. Moreno returned movies that were sent to her, and she also contacted
2 Disney to attempt to halt further shipments and to seek refunds for charges that had been posted to
3 her debit card. On information and belief, Disney did not refund charges for movies that Moreno
4 returned. Disney's customer service staff told Moreno that she was obligated to purchase
5 additional movies. Believing that she had no other option, plaintiff Moreno eventually relented
6 and made additional purchases from Disney, including the purchase of a movie in June 2017 for
7 which Moreno was charged \$36.78.

8 12. If plaintiff Moreno had known that Defendants were going to enroll her in a
9 program under which additional movies would be shipped to her without her request and under
10 which corresponding charges would be posted to her credit or debit card, Moreno would not have
11 purchased any movies in early 2015.

12 13. If plaintiff Moreno had known that, contrary to Disney's representation, she did not
13 have an obligation under California law to purchase additional movies, she would not have
14 purchased any additional movies and would not have paid any money to Defendants.

15 *Cheryl James-Ward*

16 14. In or about October 2018, a set of Disney DVDs was delivered to plaintiff James-
17 Ward at her residence in San Diego County, California, accompanied by a document stating that
18 James-Ward owed money to the Disney Movie Club. Also in October 2018, a charge of \$6.40
19 appeared on plaintiff James-Ward's credit card statement, which reflected that it was a charge by
20 the Disney Movie Club.

21 15. Plaintiff James-Ward did not order or request the DVDs from Defendants; she did
22 not authorize the \$6.40 charge to her credit card; and she did not consent to be enrolled in the
23 Disney Movie Club or to be billed for any movies.

24 16. Upon receiving the DVDs and the statement of monies supposedly owed to the
25 Disney Movie Club, James-Ward was concerned that Disney would attempt to collect additional
26 money from her. Seeking to forestall that from happening, James-Ward returned the DVDs to
27 Disney. At that time, James-Ward was not aware that, pursuant to Civil Code § 1584.5, her
28

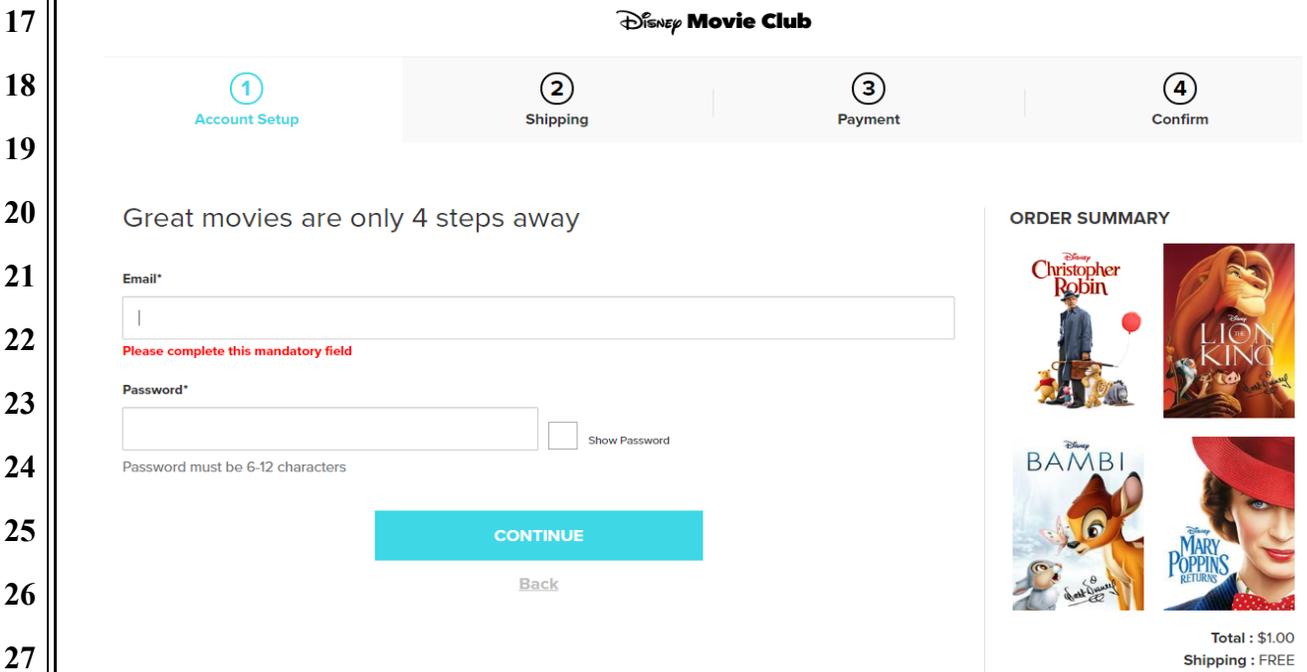
1 receipt of the unordered DVDs was deemed to be a gift under California law and that she had no
2 obligation to pay any statement or invoice.

3 17. Plaintiff James-Ward did not retain materials evidencing the delivery of the DVDs,
4 nor did she retain the document that stated that she owed money to the Disney Movie Club. Such
5 documents are in the exclusive possession, custody, and control of Defendants. Plaintiff James-
6 Ward will seek production of such documents during the course of discovery in this action, which
7 James-Ward believes will support the allegations herein.

8 **DISNEY’S DECEPTION OF CONSUMERS**

9 18. As noted above, one of the ways in which Disney generates DVD sales is by
10 offering consumers the opportunity to buy multiple movies for a nominal sum, such as the
11 “4 MOVIES FOR \$1” offer on <<https://disneymovieclub.go.com/magic>> [as of July 16, 2019].
12 That offer can be used to illustrate one of the ways in which Disney violates California law. When
13 a consumer is attracted by that offer and selects movies for purchase, the website walks the
14 consumer through a four-step purchase sequence.

15 19. Step 1 is to set up an account by submitting the consumer’s email address and
16 creating a password, as shown below:



1 20. Step 2 is to fill in the “Shipping” page with the consumer’s name and address
2 information:

Disney Movie Club

① Account Setup ② **Shipping** ③ Payment ④ Confirm

Your movies delivered straight to your door

First Name*	Last Name*
<input type="text"/>	<input type="text"/>
Address*	City*
<input type="text"/>	<input type="text"/>
State*	ZIP Code*
<input type="text" value="Please Select"/>	<input type="text"/>

CONTINUE
[Back](#)

ORDER SUMMARY



Total : \$1.00
Shipping : FREE

15 21. Step 3 is to complete the “Payment” page by submitting credit card information,
16 including name, credit card number, and expiration date:

Disney Movie Club

① Account Setup ② Shipping ③ **Payment** ④ Confirm

Now we'll need your payment information

Name as it appears on your credit card*	Credit Card Number*
<input type="text"/>	<input type="text"/>
Expiration*	
<input type="text" value="MM"/>	<input type="text" value="YYYY"/>
<input checked="" type="checkbox"/> Billing Same As Shipping	

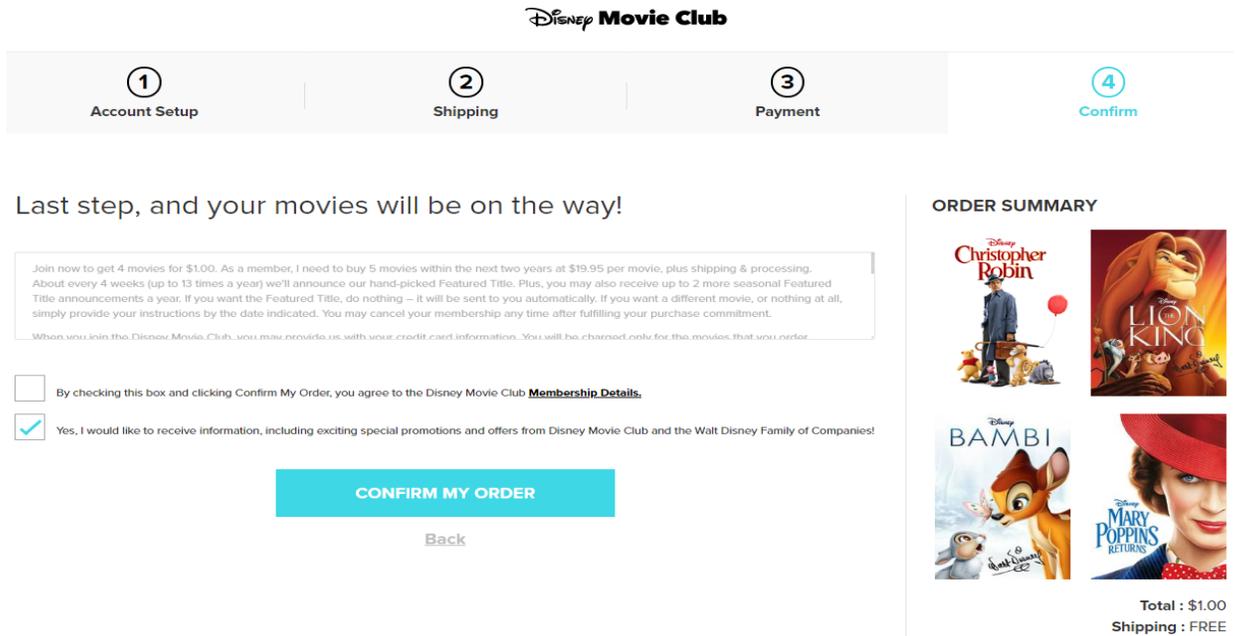
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ORDER SUMMARY



Total : \$1.00
Shipping : FREE

1 22. The fourth and final step of the purchase sequence is to submit the order on the
2 “Confirm” page, shown below. The consumer is told this is the “Last step, and your movies will
3 be on their way!”



15 23. On information and belief, when a consumer purchases movies through the
16 sequence depicted above, or through any similar sequence, Defendants enroll the consumer in a
17 continuous service program called the “Disney Movie Club” and purport to impose on the
18 consumer an obligation to buy additional movies at much higher prices. Thereafter, Defendants
19 send the consumer additional movies on a recurring basis, typically monthly (the “Featured Title”)
20 and post a corresponding charge to the consumer’s credit or debit card, unless the consumer has
21 earlier instructed Defendants to not ship the Featured Title for that particular month.

22 24. When consumers complain that they have received unordered movies and that they
23 have been subjected to unauthorized credit card or debit card charges, Defendants justify their
24 actions with the explanation that the monthly shipments and the corresponding credit or debit card
25 charges are terms to which the consumer agreed when making the initial purchase. For that
26 argument, Defendants rely on the faint text in tiny font contained in the scroll box on the
27 “Confirm” page. In its entirety (after scrolling), that text states as follows:
28

1 Join now to get 4 movies for \$1.00. As a member, I need to buy 5 movies within the next two years at \$19.95 per movie, plus
2 shipping & processing. About every 4 weeks (up to 13 times a year) we'll announce our hand-picked Featured Title. Plus, you
3 may also receive up to 2 more seasonal Featured Title announcements a year. If you want the Featured Title, do nothing – it
4 will be sent to you automatically. If you want a different movie, or nothing at all, simply provide your instructions by the date
5 indicated. You may cancel your membership any time after fulfilling your purchase commitment.

6 When you join the Disney Movie Club, you may provide us with your credit card information. You will be charged only for
7 the movies that you order (including Featured Title shipments) plus shipping and processing. We will not charge your credit
8 card until the date of shipment. If you are unable to meet your commitment within your commitment period, your credit card
9 may be charged for the value of the 4 reduced-priced titles you have received. This amount is dependent upon your initial
10 sign up offer and the price of your introductory movies.

11 Your satisfaction is 100% guaranteed! If you are not completely satisfied with your introductory titles, simply return them
12 within 10 days of receipt along with written notice informing us that you want to cancel your membership. We will refund
13 any money you might have sent, including shipping and processing costs, as part of our no-risk guarantee.

14 This offer is limited to customers residing in the contiguous United States and may be withdrawn at any time. Disney Movie
15 Club cannot ship to APOs or FPOs. Limit: one membership per household. Must be 18 years of age or older to join.
16 Applicable sales tax will be applied to orders shipped to select states.

17 This offer may not be combined with any other promotional offer, including coupons and rebates.

18 All applications to join the Disney Movie Club are subject to review. We reserve the right to request additional information,
19 to reject any application, or to cancel any membership. We reserve the right to alter or end this offer at any time.

20 All titles are subject to availability.

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23 25. For the reasons explained below, the purported agreement to purchase additional
24 movies and the purported right for Disney to post charges to the consumer's credit or debit card as
25 payment for such additional movies are invalid and unenforceable under California law.
26 Furthermore, under California law, all movies subsequently shipped are deemed to be a "free gift"
27 to the consumer, without any obligation to return them or pay for them.

28 26. Another way in which Defendants violate consumers' rights is by shipping DVDs
to consumers who did not order them, along with a statement or invoice stating that the consumer
owes money to the Disney Movie Club.

27 27. This action seeks restitution and/or damages on behalf of affected California
consumers, and a public injunction for the benefit of the People of the State of California.

28 **OTHER CONSUMERS' EXPERIENCES WITH THE DISNEY MOVIE CLUB**

29 28. Plaintiffs are not the only consumers to be victimized by Defendants in connection
with the Disney Movie Club. There are hundreds of consumer complaints about the Disney
Movie Club posted on a variety of websites, including but not limited to the Better Business

1 Bureau (“BBB”), Yelp, Complaints Board, and pissedconsumer.com.¹ Many consumers report
2 that their credit cards were charged without authorization, or that unordered movies were received
3 with an invoice stating that the recipient owed money, when, in fact, no money was due.

4 29. On the BBB website, some illustrative consumer complaints (in their own words)
5 about experiences with Disney Movie Club include the following:

6 **Complaint Type: Problems with Product/Service (April 19, 2019).** I was sent
7 items I never agreed to be delivered and will not be subject to returning either. I am
8 also being charged for a membership I don’t want. I was sent three copies of dvds
9 unsolicited against my will and I am also being charged for a membership I never
10 agreed to. I am not going to be subjected to this membership or held down to a
11 commitment. I will not pay this company anything and I want the membership
12 cancelled ASAP. I will not be returning anything they sent me or will not be
13 charged for anything else.

14 A true and correct printout of that complaint is attached as Exhibit 1.

15 **Complaint Type: Advertising/Sales Issues (April 9, 2019).** DMC keeps sending
16 unsolicited DVDs and letters to fulfill the commitment and membership which I
17 didn’t even joined and give authorizaton. For over the past 2 years Disney Movie
18 Club keeps sending me unsolicited DVDs that I’ve returned everytime so that they
19 won’t charge me and even letters saying that they’ll charge me \$53.88 for the
20 movies. They wouldn’t give me the option to cancel the membership (without my
21 consent) which I did not even join in the first place. To purchase all 4 movies is
22 apperently the only way to cancel the membership.

23 A true and correct printout of that complaint is attached as Exhibit 2.

24 **Complaint Type: Advertising/Sales Issues (April 9, 2019).** My parents received a
25 package with my name on it containing three movies that I did not order. My
26 parents received a package with my name on it containing three movies that I did
27 not order and a membership that I did not sign up for. I called and asked exactly
28 how my membership was created, because something illegal obviously took place
and they would not give me that information. All they said was that the account
was created through a 3rd party application. Perhaps a game or survey. They also
made clear that they have a credit card on file. I don’t play games and I don’t do
any online surveys. I certainly have never given my cc info to any 3rd party gaming
or survey sites. What they are doing has to be illegal and it needs to stop!

¹ Better Business Bureau reviews are available at <https://www.bbb.org/us/ca/burbank/profile/book-compact-disc-and-dvd-club/disney-movie-club-1216-100038296/complaints> (as of July 16, 2019); Yelp reviews are available at <https://www.yelp.com/biz/disney-movie-club-noonah> (as of July 16, 2019); Complaints Board reviews are available at <https://www.complaintsboard.com/complaints/disney-movie-club-virginia-c408188.html> (as of July 16, 2019); Pissed Consumer reviews are available at <https://disney-movie-club.pissedconsumer.com/disney-movie-club-membership-6973/6/RT-CP.html> (as of July 16, 2019).

1 A true and correct printout of that complaint is attached as Exhibit 3.

2 **Complaint Type: Billing/Collection Issue (February 19, 2019).** Disney Movie
3 Club have submitted 5 charges to my account without authorization. I did not
4 authorize charges and was not able to contact them to dispute charges and in
5 addition did not receive merchandise that was charge to my account. I was charge
6 over \$200 dollars worth of movies. I went on the DMC website to cancel and
7 dispute charges and it does not exist on website.

6 A true and correct printout of that complaint is attached as Exhibit 4.

7 30. On the PissedConsumer.com website, some illustrative consumer complaints about
8 Disney Movie Club express similar grounds for frustration:

9 **Disney Movie Club is a Scam and [they] should be held accountable! (March**
10 **28, 2019).** I got three movies I did Not order! Was very hard to get through to
11 them by phone to complain and get a return postage label. Got the label and sent
12 them back, then got an unfriendly letter saying I would be billed for \$53.88 or more
13 if I didn't make sure my "membership" was cancelled by a certain date. This
14 unscrupulous behavior needs to be stopped and punished!

15 I will NEVER do any kind of business with Disney again!

14 A true and correct printout of that complaint is attached as Exhibit 5.

15 **Being charged by Disney Movie Club for no purchase (Nov. 5, 2017).** Cannot
16 contact them via phone because I don't have a member I.D. or a telephone number
17 on file I have a \$28.35 I don't know where it came from and now they will not
18 answer when I call because I technically do not have a membership with them.

19 Not sure how to make this stop as they seem to have my bank account information
20 on file.

21 Worried that these close to 30 dollar charges will keep occurring month after month
22 not sure what to do ... I do not want this to keep happening.

21 A true and correct printout of that complaint is attached as Exhibit 6.

22 **Somehow got signed up—crazy!!!! (July 13, 2017).** We rented a movie off of
23 amazon prime--next day a charge for \$30 something on cc. We refuted it.

24 We would never join this, our kids are older and don't like Disney. 2 days later
25 package of dvds arrive with a bill????? Tried to return, and having hard time
26 doing that and will have to pay \$7 shipping.... We never joined!!!!!!!!!! Major
27 Fraud!

28 We have no interest in doing this, and seriously, it needs to be shut down as it relies
29 on people shrugging and paying up just to make it go away.

30 I hope they are being looked into to be closed down. That's all-

1 A true and correct printout of that complaint is attached as Exhibit 7.

2 **Never Signed Up, But Was CC Was Charged (May 30, 2017).** Received two
3 packages today, along with invoice showing our cc was charged \$33 for 5 dvds.
4 Checked with cc company and sure enough, we were charged.

4 They reversed it, of course. I then had to spend several minutes going through
5 phone *** with DMC to cancel a membership in a club I never would have joined.

5 They claimed I must have clicked on a pop up and that signed me up. Someone,
6 somewhere scammed me.

7 A true and correct printout of that complaint is attached as Exhibit 8.

8 **Never signed up. Stolen credit card info (May 23, 2017).** I came home one day
9 and had 2 brown packages from the DMC. Inside the packs were a welcome gift
10 and 5 movies (2 of which were the same).

10 The problem is, I never signed up for this club, and the day before I recieved a
11 fraud alert from my credit card. Apparently this one went through. I called
12 customer service, explained what the bank caught and asked to cancel. They say
13 that I need to pay the balance due, send the movies back, then I'll get a refund
14 within 4 to 6 weeks.

13 How is this ok?

14 When I asked how my info was obtained, they asked me if I went on any of their
15 affiliate websites or played any games online. Even if I had done that, why would
16 they be able to use my info and sign me up for their "club" Not cool guys

16 A true and correct printout of that complaint is attached as Exhibit 9.

17 **SUMMARY OF PERTINENT CALIFORNIA LAW**

18 31. California has enacted consumer-protection laws that forbid many of the specific
19 business practices described above.

20 **The Automatic Renewal Law (ARL)**

21 32. The California Automatic Renewal Law ("ARL") is codified at Business and
22 Professions Code § 17600 et seq., as part of the False Advertising Law. (Unless otherwise
23 indicated, all further statutory references are to the Business and Professions Code.) The ARL
24 seeks to ensure that, before there can be a legally-binding automatic renewal or continuous service
25 arrangement, there must first be clear and conspicuous disclosure of certain terms and conditions
26 and affirmative consent by the consumer. To that end, § 17602(a) makes it unlawful for any
27 business making an automatic renewal offer or a continuous service offer to a consumer in
28 California to do any of the following:

1 a. Fail to present the automatic renewal offer terms or continuous service offer
2 terms in a clear and conspicuous manner before the subscription or purchasing agreement is
3 fulfilled and in visual proximity, or in the case of an offer conveyed by voice, in temporal
4 proximity, to the request for consent to the offer. For this purpose, “clear and conspicuous” means
5 “in larger type than the surrounding text, or in contrasting type, font, or color to the surrounding
6 text of the same size, or set off from the surrounding text of the same size by symbols or other
7 marks, in a manner that clearly calls attention to the language.” (§ 17601(c).) “In the case of an
8 audio disclosure, ‘clear and conspicuous’ ... means in a volume and cadence sufficient to be
9 readily audible and understandable.” (*Ibid.*)

10 b. Charge the consumer’s credit or debit card or the consumer’s account with a
11 third party for an automatic renewal or continuous service without first obtaining the consumer’s
12 affirmative consent to the agreement containing the automatic renewal offer terms or continuous
13 service offer terms.

14 c. Fail to provide an acknowledgment that includes the automatic renewal or
15 continuous service offer terms, cancellation policy, and information regarding how to cancel in a
16 manner that is capable of being retained by the consumer. If the offer includes a free trial, the
17 business shall also disclose in the acknowledgment how to cancel and allow the consumer to
18 cancel before the consumer pays for the goods or services. Section 17602(b) requires that the
19 acknowledgment specified in § 17602(a)(3) include a toll-free telephone number, electronic mail
20 address, or other mechanism for cancellation.

21 33. Section 17603 provides: “In any case in which a business sends any goods, wares,
22 merchandise, or products to a consumer, under a continuous service agreement or automatic
23 renewal of a purchase, without first obtaining the consumer’s affirmative consent as described in
24 § 17602, the goods, wares, merchandise, or products shall for all purposes be deemed an
25 unconditional gift to the consumer, who may use or dispose of the same in any manner he or she
26 sees fit without any obligation whatsoever on the consumer’s part to the business, including, but
27 not limited to, bearing the cost of, or responsibility for, shipping any goods, wares, merchandise,
28 or products to the business.”

1 **Civil Code § 1716**

2 34. Civil Code § 1716 sets forth California’s statutory prohibition of the practice of
3 soliciting payment of money by means of a written statement or invoice for goods that were not
4 ordered or services that were not performed.

5 35. Civil Code § 1716(b) requires that any written statement or invoice that is in fact a
6 solicitation for an order must bear a conspicuous notice or disclaimer, one permissible version of
7 which is: “THIS IS NOT A BILL. THIS IS A SOLICITATION. YOU ARE UNDER NO
8 OBLIGATION TO PAY THE AMOUNT STATED ABOVE UNLESS YOU ACCEPT THIS
9 OFFER.”

10 36. Civil Code § 1716(g) provides that any person damaged by noncompliance with
11 § 1716 is, in addition to other remedies, entitled to damages in an amount equal to three times the
12 sum solicited.

13 **CLASS ACTION ALLEGATIONS**

14 37. Plaintiffs bring this lawsuit as a class action under Code of Civil Procedure § 382.

15 a. Plaintiffs Moreno and James-Ward bring this action on behalf of the “ARL
16 Class,” which is defined as: “All California residents who, within the applicable statute of
17 limitations, were enrolled by Defendants in the Disney Movie Club. Excluded from the ARL
18 Class are all employees of Defendants, all employees of Plaintiff’s counsel, and the judicial
19 officers to whom this case is assigned.”

20 b. Plaintiff James-Ward brings this action on behalf of the “Unordered Goods
21 Class,” which is defined as: “All California residents who, within the applicable statute of
22 limitations, received from Defendants a bill, invoice, or other written statement for Disney DVDs
23 that the individual did not order. Excluded from the Unordered Good Class are all employees of
24 Defendants, all employees of Plaintiff’s counsel, and the judicial officers to whom this case is
25 assigned.”

26 38. Ascertainability. The members of each Class may be ascertained by reviewing
27 records in the possession of Defendants, their subsidiaries or affiliated entities, and/or third
28

1 parties, including without limitation Defendants’ marketing, promotion, customer, order, and
2 billing records.

3 39. Common Questions of Fact or Law. There are questions of fact or law that are
4 common to the members of each Class, which predominate over individual issues. Common
5 questions regarding the ARL Class include, without limitation: (1) whether Defendants present all
6 statutorily-mandated automatic renewal or continuous service offer terms, within the meaning of
7 § 17601(b); (2) whether Defendants present automatic renewal or continuous service offer terms
8 in a manner that is “clear and conspicuous,” within the meaning of § 17601(c), and in “visual
9 proximity” to a request for consent to the offer (or in the case of an offer conveyed by voice, in
10 temporal proximity to a request for consent to the offer), as required by § 17602; (3) whether
11 Defendants obtain consumers’ affirmative consent to an agreement containing clear and
12 conspicuous disclosure of automatic renewal or continuous service offer terms before charging a
13 credit card, debit card, or third-party payment account; (4) whether Defendants provide consumers
14 with an acknowledgment that includes clear and conspicuous disclosure of all statutorily-
15 mandated automatic renewal or continuous service offer terms, the cancellation policy, and
16 information regarding how to cancel in a manner that is capable of being retained by the
17 consumer; (5) Defendants’ record-keeping practices; (6) the appropriate remedies for Defendants’
18 conduct; and (7) the appropriate terms of an injunction. Common questions regarding the
19 Unordered Goods Class include, without limitation: (1) whether Defendants solicit payment of
20 money for goods not ordered by means of a written statement, invoice, or other writing that
21 reasonably could be considered a bill, invoice, or statement of account; (2) whether Defendants
22 include on any such written statement, invoice, or other writing either the disclaimer prescribed by
23 39 U.S.C 3001(d)(2)(A) or the notice prescribed by Civil Code § 1716(b); (c) Defendants’ record-
24 keeping practices; and (4) the appropriate remedies for Defendants’ conduct.

25 40. Numerosity. Each Class is so numerous that joinder of all Class members would be
26 impracticable. Plaintiffs are informed and believe and thereon allege that each Class consists of at
27 least 100 members.

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1 41. Typicality and Adequacy. Plaintiffs’ claims are typical of the claims of the Class
2 members. Plaintiffs allege on information and belief that Defendants enrolled ARL Class
3 members in an automatic renewal or continuous service offer program without disclosing all terms
4 required by law, and without presenting such terms in the requisite “clear and conspicuous”
5 manner; charged ARL Class members’ credit cards, debit cards, or third-party accounts without
6 first obtaining the ARL Class members’ affirmative consent to an agreement containing clear and
7 conspicuous disclosure of automatic renewal offer terms in the manner required by California law;
8 and failed to provide the requisite acknowledgment in a manner capable of being retained by the
9 ARL Class members. Plaintiffs have no interests that are adverse to those of the other ARL Class
10 members, and Plaintiffs will fairly and adequately protect the interests of the ARL Class members.
11 Plaintiff James-Ward alleges on information and belief that Defendants solicited money from the
12 Unordered Products Class members by means of bills, invoices, or other writings that reasonably
13 could be considered a bill, invoice, or statement of account due relating to Disney DVDs that were
14 not ordered by the Unordered Products Class members.

15 42. Superiority. A class action is superior to other methods for resolving this
16 controversy. Because the amount of restitution to which each Class member may be entitled is
17 low in comparison to the expense and burden of individual litigation, it would be impracticable for
18 Class members to redress the wrongs done to them without a class action forum. Furthermore, on
19 information and belief, Class members do not know that their legal rights have been violated. If
20 Defendants are not enjoined from continuing their business practices as alleged herein, they will
21 continue to violate the rights of California consumers. Class certification would also conserve
22 judicial resources and avoid the possibility of inconsistent judgments.

23 43. Defendants Have Acted on Grounds Generally Applicable to the Class. Defendants
24 have acted on grounds that are generally applicable to the Class, thereby making appropriate final
25 injunctive relief and/or declaratory relief with respect to the Class as a whole.

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1 **FIRST CAUSE OF ACTION**

2 Violation of the California Automatic Renewal Law

3 (Bus. & Prof. Code, § 17600 et seq.)

4 (By Plaintiffs Against Disney and DOES 1-30)

5 44. Plaintiffs incorporate the allegations of paragraphs 1-43 as though set forth herein.

6 45. Plaintiffs are informed and believe and thereon allege that, during the applicable
7 statute of limitations period, Defendants have enrolled consumers, including Plaintiffs and ARL
8 Class members, in an automatic renewal or continuous service program and have violated the
9 ARL by, among other things, (a) failing to present automatic renewal or continuous service offer
10 terms in a clear and conspicuous manner before a selection, subscription, or purchasing agreement
11 is fulfilled and in visual proximity, or in the case of an offer conveyed by voice, in temporal
12 proximity, to a request for consent to the offer; (b) charging the consumer's credit card, debit card,
13 or third-party payment account for an automatic renewal or continuous service without first
14 obtaining the consumer's affirmative consent to an agreement containing clear and conspicuous
15 disclosure of automatic renewal offer terms or continuous service offer terms; and (c) failing to
16 provide an acknowledgment that includes automatic renewal or continuous service offer terms,
17 cancellation policy, and information regarding how to cancel in a manner that is capable of being
18 retained by the consumer, all in violation of § 17602(a) and (b).

19 46. As a result of Defendants' statutory violations, any automatic renewal or
20 continuous service offers made or attempted to be made by Defendants to Plaintiffs and ARL
21 Class members were in violation of law and, therefore, such offers or attempted offers were not
22 accepted by Plaintiff or ARL Class members and could not and did not give rise to an agreement
23 for automatic renewal or continuous service regarding Disney DVDs or the Disney Movie Club.

24 47. As a result of Defendants' conduct, pursuant to §§ 17535 and 17603, Plaintiffs and
25 ARL Class members are entitled to restitution of all amounts paid to Defendants during the four
26 years preceding the commencement of this action in connection with a subscription to the Disney
27 Movie Club that purported to provide for automatic renewal or continuous service, and continuing
28 until Defendants' statutory violations cease.

1 (e) advertising goods and services with the intent not to sell them as advertised, in violation of
2 Civil Code § 1770(a)(9); (f) making false and misleading statements of fact concerning the reasons
3 for, existence of and amounts of price reductions, in violation of Civil Code § 1770(a)(13);
4 (g) representing that a transaction confers or involves rights, remedies, or obligations that it does
5 not have or involve, or that are prohibited by law, in violation of Civil Code § 1770(a)(14);
6 (h) representing that the consumer will receive a rebate, discount, or other economic benefit, if the
7 earning of the benefit is contingent on an event to occur subsequent to the consummation of the
8 transaction, in violation of Civil Code § 1770(a)(17); and/or (i) soliciting payment of money for
9 goods that were not ordered by means of a written statement, invoice, or other writing that
10 reasonably could be considered a bill, invoice, or statement of account due. Plaintiffs reserve the
11 right to identify other acts or omissions that constitute unlawful, unfair or fraudulent business acts
12 or practices, unfair, deceptive, untrue or misleading advertising, and/or other prohibited acts.

13 62. Defendants' acts and omissions as alleged herein violate obligations imposed by
14 statute, are substantially injurious to consumers, offend public policy, and are immoral, unethical,
15 oppressive, and unscrupulous as the gravity of the conduct outweighs any alleged benefits
16 attributable to such conduct.

17 63. There were reasonably available alternatives to further Defendants' legitimate
18 business interests, other than the conduct described herein.

19 64. Defendants' acts, omissions, nondisclosures, and statements as alleged herein were
20 and are false, misleading, and/or likely to deceive the consuming public.

21 65. Plaintiffs have suffered injury in fact and lost money as a result of Defendants' acts
22 of unfair competition.

23 66. Pursuant to § 17203, Plaintiffs and the Class members are entitled to restitution of
24 all amounts paid to Defendants in the four years preceding the filing of this Complaint and
25 continuing until Defendants' acts of unfair competition cease.

26 67. Unless enjoined and restrained by this Court, Defendants will continue to commit
27 the violations alleged herein. Pursuant to § 17203, on behalf of the ARL Class, the Unordered
28

1 Products Class, and also for the benefit of the general public of the State of California, plaintiffs
2 seek an injunction that:

3 a. Prohibits Defendants from making any automatic renewal or continuous
4 service offer to any consumer in the State of California without first presenting all “automatic
5 renewal offer terms” (as defined in § 17601(b)) in a manner that is “clear and conspicuous” (as
6 defined in § 17601(c)), as required by § 17602(a)(1);

7 b. Prohibits Defendants from charging any California consumer’s credit card,
8 debit card, or third-party payment account for a subscription that includes automatic renewal or
9 continuous service without first obtaining the consumer’s affirmative consent to an agreement
10 containing clear and conspicuous disclosure of all automatic renewal offer terms, as those terms
11 are defined in § 17601(b) and (c);

12 c. Requires Defendants to provide each California consumer who enters into a
13 subscription that includes automatic renewal or continuous service with an acknowledgement that
14 meets the requirements of § 17602(a)(3);

15 d. Prohibits Defendants from representing that Defendants’ goods or services
16 have characteristics that they do not have;

17 e. Prohibits Defendants from advertising goods or services with the intent not
18 to sell them as advertised;

19 f. Prohibits Defendants from making false or misleading statements of fact
20 concerning the reasons for, existence of and amounts of price reductions;

21 g. Prohibits Defendants from representing that a transaction confers or
22 involves rights, remedies, or obligations that it does not have or involve, or that are prohibited by
23 law;

24 h. Prohibits Defendants from representing that the consumer will receive a
25 rebate, discount, or other economic benefit, if the earning of the benefit is contingent on an event
26 to occur subsequent to the consummation of the transaction; and

27 i. Prohibits Defendants from soliciting payment of money for goods that were
28 not ordered.

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On All Causes of Action:

- 8. For reasonable attorneys' fees, pursuant to Code of Civil Procedure § 1021.5;
- 9. For costs of suit;
- 10. For pre-judgment interest; and
- 11. For such other relief as the Court may deem just and proper.

Dated: July 30, 2019

DOSTART HANNINK & COVENEY LLP


ZACH P. DOSTART
Attorneys for Plaintiffs

DEMAND FOR JURY TRIAL

Plaintiffs hereby demand a trial by jury of all claims and causes of action so triable.

Dated: July 30, 2019

DOSTART HANNINK & COVENEY LLP


ZACH P. DOSTART
Attorneys for Plaintiffs

886078.4

Exhibit 1

04/19/2019



I was sent items I never agreed to be delivered and will not be subject to returning either. I am also being charged for a membership I don't want. I was sent three copies of dvds unsolicited against my will and I am also being charged for a membership I never agreed to. I am not going to be subjected to this membership or held down to a commitment. I will not pay this company anything and I want the membership cancelled ASAP. I will not be returning anything they sent me or will not be charged for anything else.

Desired Outcome

I don't want to be charged by this company. I want no further contact from them and I want my membership terminated. I will not be subject to return any materials they delivered to me either. I want this all handled with asap.



Disney Movie Club Response

04/22/2019

Re: ***** Complaint ID: XXXXXX The Disney Movie Club is in receipt of a complaint submitted to your office by *****. We would like to inform you of the steps we have taken to resolve this matter. Pursuant to his phone request, the Disney Movie Club has closed the Membership under Ms. *****'s name effective April 22, 2019. If Ms. ***** has any further questions, she may contact ***** directly at XXX-XXX-XXXX, or via email at *****@movieclubinfo.com. We regret any frustrations Ms. ***** has experienced and thank him for bringing this to our attention. I hope that the above is helpful in answering your inquiries. I trust that this satisfactorily resolves this matter, but please let me know if you have any questions or require any further information.



Customer Response

04/24/2019

(The consumer indicated he/she ACCEPTED the response from the business.)

Exhibit 2

04/09/2019



DMC keeps sending unsolicited DVDs and letters to fulfill the commitment and membership which I didn't even joined and give authorizatoin. For over the past 2 years Disney Movie Club keeps sending me unsolicited DVDs that I've returned everytime so that they won't charge me and even letters saying that they'll charge me \$53.88 for the movies. They wouldn't give me the option to cancel the membership(without my consent) which I did not even join in the first place. To purchase all 4 movies is apperently the only way to cancel the membership.

Desired Outcome

Please stop Disney Movie Club sending me letters and DVDs and most importantly cancel my membership that I didn't even to be a part of in the first place.



Disney Movie Club Response

04/12/2019

Re: ***** Complaint ID: XXXXXX The Disney Movie Club is in receipt of a complaint submitted to your office by *****. We would like to inform you of the steps we have taken to resolve this matter. Disney Movie Club representative, ***** has left a detailed voice mail for Ms. ***** to assist her with her concerns. If Ms. ***** would please contact ***** directly at XXX-XXX-XXXX, or via email at *****@movieclubinfo.com we would be happy to help. I hope that the above is helpful in answering your inquiries. I trust that this satisfactorily resolves this matter, but please let me know if you have any questions or require any further information.

Exhibit 3

04/09/2019



My parents received a package with my name on it containing three movies that I did not order. My parents received a package with my name on it containing three movies that I did not order and a membership that I did not sign up for. I called and asked exactly how my membership was created, because something illegal obviously took place and they would not give me that information. All they said was that the account was created through a 3rd party application. Perhaps a game or survey. They also made clear that they have a credit card on file. I don't play games and I don't do any online surveys. I certainly have never given my cc info to any 3rd party gaming or survey sites. What they are doing has to be illegal and it needs to stop!

Desired Outcome

I would like for them to stop signing people up to bogus accounts. I would like to be made absolutely certain that my "membership" is cancelled. I do not want to be held liable for any movies they sent to my parents house. I didn't order them and I'm not going to ask my parents to return them on my behalf.



Disney Movie Club Response

04/11/2019

Re: ***** Complaint ID: XXXXXXX The Disney Movie Club is in receipt of a complaint submitted to your office by *****. We would like to inform you of the steps we have taken to resolve this matter. Pursuant to his phone request, the Disney Movie Club has closed the Membership under Ms. ***** name effective April 4, 2019. If Mr. ***** has any further questions, he may contact ***** directly at XXX-XXX-XXXX, or via email at *****@movieclubinfo.com. We regret any frustrations Mr. ***** has experienced and thank him for bringing this to our attention.



Customer Response

04/14/2019

(The consumer indicated he/she DID NOT accept the response from the business.) I will not call ***** directly and I will not request my parents to send back any unsolicited materials that were included in the "welcome kit" that I did not sign up for. Nor will I accept any responsibility or liability for the cost of said materials. If Disney Movie Club has my credit card information in their database or physical files, I demand proof that the information has been deleted/destroyed. Furthermore, if I see any activity on my credit cards from this company or any negative implications on my credit report as a result of this activity, I will escalate this matter to the appropriate agencies.



Disney Movie Club Response

04/16/2019

Re: ***** Complaint ID: XXXXXXX The Disney Movie Club is in receipt of a complaint submitted to your office by *****. We would like to inform you of the steps we have taken to resolve this matter. We have noted this account as fraudulent. All credit card information has been removed from our systems at the time Mr. ***** reported this on April 4, 2019. He does not need to return the movies, he may keep them. If Mr. ***** has any further questions, or would like to discuss his phone experience, he may contact ***** directly at XXX-XXX-XXXX, or via email at *****@movieclubinfo.com. We regret any frustrations Mr. ***** has experienced and thank him for bringing this to our attention. I hope that the above is helpful in answering your inquiries. I trust that this satisfactorily resolves this matter, but please let me know if you have any questions or require any further information.

Exhibit 4

Complaint Type: Billing/Collection Issues Status: Answered ?

02/19/2019



Disney Movie Club have submitted 5 charges to my account without authorization. I did not authorize charges and was not able to contact them to dispute charges and in addition did not receive merchandise that was charge to my account. I was charge over \$200 dollars worth of movies. I went on the DMC website to cancel and dispute charges and it does not exist on website.

Desired Outcome

Refund and cancellation of membership.



Disney Movie Club Response

02/20/2019

Re: ***** Complaint ID: XXXXXX The Disney Movie Club is in receipt of a complaint submitted to your office by *****. We would like to inform you of the steps we have taken to resolve this matter. Ms. ***** called the Disney Movie Club on February 18, 2019 at which time her account was canceled and credits were provided for the movies being shipped to her. A pre-paid mailing label is being sent to return all of the movies. If Ms. ***** has any further questions, she may contact Priscilla directly at XXX-XXX-XXXX, or via email at *****@movieclubinfo.com. We regret any frustrations Ms. ***** has experienced and thank her for bringing this to our attention. I hope that the above is helpful in answering your inquiries. I trust that this satisfactorily resolves this matter, but please let me know if you have any questions or require any further information.

Exhibit 5

Games and Movies > Disney Movie Club 781 > Review #1502470

Disney Movie Club is a Scam and tahey should be held accountable!

Mar 28

NOT RESOLVED

1 comment

I got three movies I did Not order! Was very hard to get through to them by phone to complain and get a return postage label.

Got the label and sent them back, then got an unfriendly letter saying I would be billed for \$53.88 or more if I didn't make sure my "membership" was cancelled by a certain date. This unscrupulous behavior needs to be stopped and punished!

I will NEVER do any kind of business with Disney again!

Reason of review: Return, Exchange or Cancellation Policy.

Review #1502470 is a subjective opinion of [ZigzagCaracal827](#).

Private message

 Share

Helpful?

 1

 0



Comments



DMCMemberAdvocate Apr 15 #1673242

That is not the type of experience we want you to have. If you have sent back the movies, the account will be closed and there is nothing you need to worry about.

If you have questions, please let me help.! Give my team a call at 888-608-8100, 9 a.m.

to 6 p.m., EST, Monday – Friday, or email me directly at memberadvocate@movieclubinfo.com with details. Priscilla, Member Advocate, Disney Movie Club

[↩ Reply](#) [🚩 Report](#)

Helpful? [👍 0](#) [🗨️ 0](#)

Exhibit 6

Games and Movies > Disney Movie Club 779 > Review #1126567

Being charged by Disney Movie Club for no purchase

Nov 05, 2017

NOT RESOLVED

★☆☆☆☆ 1.0 [Details](#)

[1 comment](#)

Cannot contact them via phone because I don't have a member I.D. or a telephone number on file I have a \$28.35 I don't know where it came from and now they will not answer when I call because I technically do not have a membership with them.

Related: [Disney Movie Club - Don't Join!!](#)

Not sure how to make this stop as they seem to have my bank account information on file.

Worried that these close to 30 dollar charges will keep occurring month after month not sure what to do or if anyone has any type of contact information please share so that I can get in touch with them and tell them I do not want this to keep happening. Thank you kindly.

Product or Service Mentioned: [Disney Movie Club Membership](#).

Reason of review: Problems with payment.

Monetary Loss: \$29.

Preferred solution: Full refund.

Review #1126567 is a subjective opinion of PissedConsumer1126567.

[Private message](#)

[Share](#)

Helpful? 0 0

Exhibit 6
Page 7

Comments



DMCMemberAdvocate Feb 20, 2018 #1435378

Please give my team a call at 800-459-7002, 9 a.m. to 6 p.m., EST, Monday – Friday.

This is a direct line that will allow you to speak with us to help with any of your Club needs.

I look forward to making this a better experience for you.

Priscilla

Member Advocate

Disney Movie Club

 Reply  Report

Helpful?  0  0

Exhibit 7

Games and Movies > Disney Movie Club 779 > Review #1073989

Disney Movie Club - Somehow got signed up--crazy!!!!

Jul 13, 2017

NOT RESOLVED

1 comment

We rented a movie off of amazon prime--next day a charge for \$30 something on cc. We refuted it.

Related: [Disney Movie Club - Great until it SUCKED and ripped me off](#)

We would never join this, our kids are older and don't like Disney. 2 days later package of dvds arrive with a bill??????Tried to return, and having hard time doing that and will have to pay \$7 shipping.... We never joined!!!!!!!!!! Major Fraud!

We have no interest in doing this, and seriously, it needs to be shut down as it relies on people shrugging and paying up just to make it go away.

I hope they are being looked into to be closed down. That's all-

Product or Service Mentioned: [Disney Movie Club Membership](#).

Reason of review: Return, Exchange or Cancellation Policy.

Review #1073989 is a subjective opinion of PissedConsumer1073989.

 Share

Helpful?

 0

 0



Exhibit 7
Page 9

Comments



DMCMemberAdvocate Jul 31, 2017 #1356091

Hello,

I am the Member Advocate for the Disney Movie Club and that is not the experience we want you to have with us. Please let me help!

Give me a call at 800-459-7002, 9 a.m.

to 6 p.m., EST, Monday Friday, or email me directly at memberadvocate@movieclubinfo.com with details so I can resolve this for you.

Priscilla

Member Advocate

Disney Movie Club

[↩ Reply](#) [🚩 Report](#)

Helpful? [👍 0](#) [💬 0](#)

Exhibit 8

Games and Movies > Disney Movie Club 779 > Review #1054056

Disney Movie Club - Never Signed Up, But CC Was Charged

May 30, 2017

NOT RESOLVED

1 comment

Received two packages today, along with invoice showing our cc was charged \$33 for 5 dvds. Checked with cc company and sure enough, we were charged.

Related: [Disney Movie Club - UPSET PERSON](#)

They reversed it, of course. I then had to spend several minutes going through phone *** with DMC to cancel a membership in a club I never would have joined.

They claimed I must have clicked on a pop up and that signed me up. Someone, somewhere scammed me.

Product or Service Mentioned: [Disney Movie Club Membership](#).

Reason of review: Problems with payment.

Review #1054056 is a subjective opinion of PissedConsumer1054056.

 [Share](#)

Helpful?

 2

 2



Comments



DMCMemberAdvocate

Jun 19, 2017

📍 Aliquippa, Pennsylvania, United States

#1341727

I am happy you were able to speak to one of our Cast Members and have this taken care of. That is certainly not the experience we want you to have with the Disney Movie Club.

If I can be of any further assistance, please give me a call at 800-459-7002, 9 a.m.

to 6 p.m., EST, Monday – Friday, or email me directly at memberadvocate@movieclubinfo.com with details and I would be happy to help you.

Priscilla

Member Advocate

Disney Movie Club

↩ Reply 🚩 Report

Helpful? 👍 0 💬 0

Exhibit 9

Games and Movies > Disney Movie Club 779 > Review #1051214

Disney Movie Club - Never signed up. Stolen credit card info

May 23, 2017

NOT RESOLVED

★☆☆☆☆ 1.0 [Details](#)

[1 comment](#)

I came home one day and had 2 brown packages from the DMC. Inside the packs were a welcome gift and 5 movies (2 of which were the same).

Related: [Disney Movie Club - Membership account](#)

The problem is, I never signed up for this club, and the day before I recieved a fraud alert from my credit card. Apparently this one went through. I called customer service, explained what the bank caught and asked to cancel. They say that I need to pay the balance due, send the movies back, then I'll get a refund within 4 to 6 weeks.

How is this ok?

When I asked how my info was obtained, they asked me if I went on any of their affiliate websites or played any games online. Even if I had done that, why would they be able to use my info and sign me up for their "club" Not cool guys

Product or Service Mentioned: [Disney Movie Club Membership](#).

Reason of review: Return, Exchange or Cancellation Policy.

Review #1051214 is a subjective opinion of [Bananahammersmith](#).

[Private message](#)

[Share](#)

Helpful? [1](#) [1](#) [F](#)

Exhibit 9
Page 13

Comments



DMCMemberAdvocate Jun 19, 2017 #1341732

Thank you for letting me know. If this was a fraud situation, we would like to resolve this with you as soon as possible.

Please let me help! Give me a call at 800-459-7002, 9 a.m.

to 6 p.m., EST, Monday – Friday, or email me directly at memberadvocate@movieclubinfo.com with details so I can make this a better experience for you.

Priscilla

Member Advocate

Disney Movie Club

[↩ Reply](#) [🚩 Report](#)

Helpful? [👍 0](#) [💬 0](#)