

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NASSAU**

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| <p>CLAIR AWAD and VIVIAN PICCIOTTI, individually and on behalf of all others similarly situated,</p> <p style="text-align: right;">Plaintiffs,</p> <p style="text-align: center;">v.</p> <p>AMC ENTERTAINMENT HOLDINGS, INC.,</p> <p style="text-align: right;">Defendant.</p> |
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Index No.:

SUMMONS

Plaintiffs designate NASSAU COUNTY as
the place of trial

The basis of venue is: PLAINTIFF CLAIR
AWAD'S RESIDENCE

To the above named Defendant:

YOU ARE HEREBY SUMMONED to answer the complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance on the Plaintiffs' Attorney within twenty days after the service of this summons, exclusive of the day of service (or within 30 days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

Dated: April 26, 2024
New York, New York

BURSOR & FISHER, P.A.

By: /s/ Philip L. Fraietta
Philip L. Fraietta

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**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NASSAU**

CLAIR AWAD and VIVIAN PICCIOTTI,
individually and on behalf of all others
similarly situated,

Plaintiffs,

v.

AMC ENTERTAINMENT HOLDINGS,
INC.,

Defendant.

Index No.:

**CLASS ACTION COMPLAINT AND
DEMAND FOR JURY TRIAL**

Plaintiffs Clair Awad and Vivian Picciotti brings this action on behalf of herself, and all others similarly situated against AMC Entertainment Holdings, Inc. (“AMC” or “Defendant”). Plaintiffs make the following allegations pursuant to the investigation of their counsel and based upon information and belief, except as to the allegations specifically pertaining to themselves, which are based on personal knowledge.

NATURE OF THE ACTION

1. For over a year, Defendant has been nickel and diming movie goers on its website in violation of the New York Arts and Cultural Affairs Law § 25.07(4). Whenever a movie-goer selects a ticket on the website amctheatres.com, they are quoted a fee-less price, only to be ambushed by a “convenience fee” at guest checkout after clicking through the various screens required to make a purchase. Because New York is a busy place, and because these fees are only flashed *after* a movie-goer selects their seats, Defendant can plausibly put its customers on a shot clock and tell them they need to decide quick, because Defendant cannot hold their seats open forever. This cheap trick has enabled Defendant to swindle substantial sums of money from its customers.

2. To stop this hustle, New York passed Arts and Cultural Affairs Law § 25.07(4), which provides that “every operator ... of a place of entertainment ... shall disclose the total cost of the ticket, inclusive of all ancillary fees that must be paid in order to purchase the ticket.” “Such disclosure of the total cost and fees shall be displayed in the ticket listing *prior to* the ticket being selected for purchase.” *Id.* (emphasis added). And “[t]he price of the ticket shall not increase during the purchase process.” *Id.* This latest version of the law went into effect August 29, 2022. *See* Exhibit A.

3. For these reasons, Plaintiffs seek relief in this action individually, and on behalf of all other Defendant ticket purchasers for film screenings in the state of New York for actual damages, reasonable attorneys’ costs and fees, and injunctive relief under New York Arts and Cultural Affairs Law § 25.33.

JURISDICTION AND VENUE

4. This Court has jurisdiction over the subject matter of this action as a court of general jurisdiction.

5. Venue is proper in this County pursuant to CPLR 503 because Plaintiff Awad resides in this County.

6. This Court has personal jurisdiction over Defendant because Defendant maintains its principal place of business in New York.

PARTIES

7. Plaintiff Clair Awad is an individual consumer who, at all times material hereto, is a citizen and resident of North Bellmore, New York. Plaintiff purchased two ticket to see a movie at a cinema in Defendant’s Levittown 10 location in New York on November 21, 2023 through Defendant’s website, <https://www.amctheatres.com>. The transaction flow process she

viewed on Defendant's website was substantially similar as that depicted in Figures 1 through 7 in this complaint.

8. Plaintiff Vivian Picciotti is an individual consumer who, at all times material hereto, is a citizen and resident of New York, New York. Plaintiff purchased one ticket to see a movie at a cinema in Defendant's Lincoln Square 13 location in New York on April 11, 2023 through Defendant's website, <https://www.amctheatres.com>. The transaction flow process she viewed on Defendant's website was substantially similar as that depicted in Figures 1 through 7 in this complaint.

9. Defendant AMC Entertainment Holdings, Inc. is a Delaware corporation with its principal place of business in 11500 Ash St. Leawood, Kansas, 66211. Defendant sells movie tickets throughout the United States, including in the state of New York.

RELEVANT FACTUAL ALLEGATIONS

10. When a movie-goer visits Defendant's website, <https://www.amctheatres.com>, on the main page, she can select a movie, showtime, and theatre location for a particular screening, including those taking place in New York. *See* Figures 1 and 2, next page.

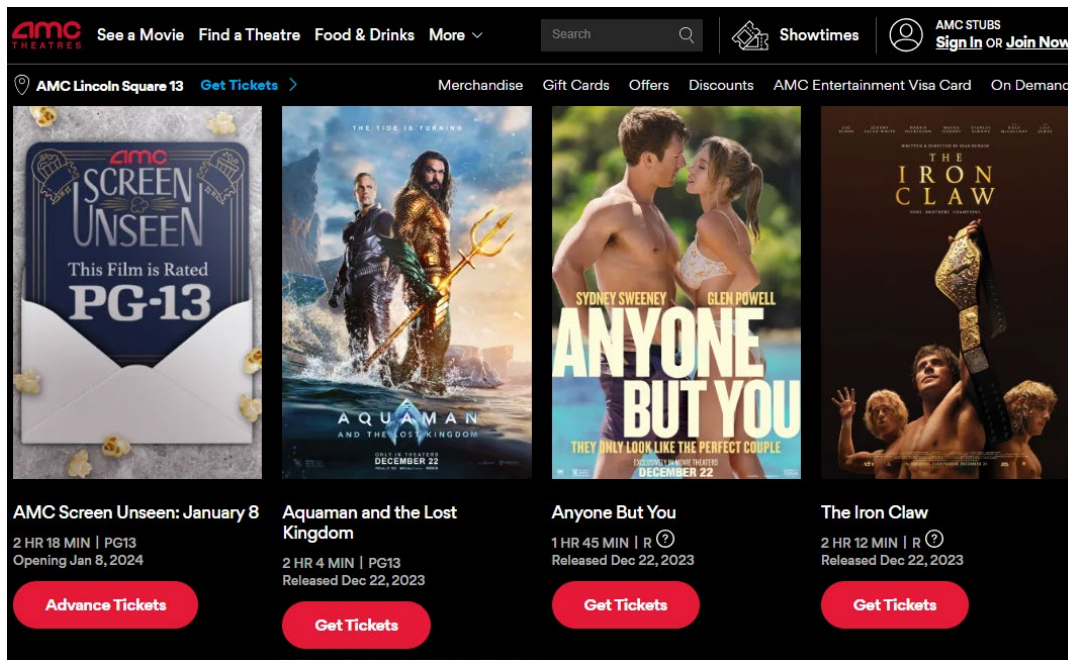


Figure 1

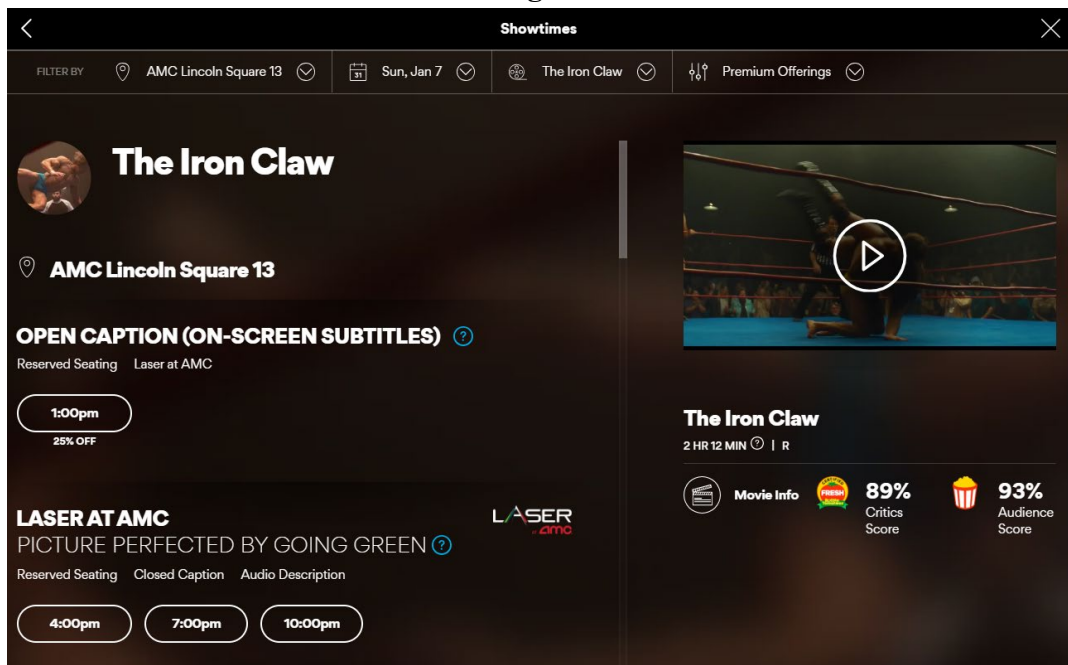


Figure 2

11. After a consumer selects a showtime at a particular theatre, the purchase process begins and she is prompted to select a seat. See Figure 3, next page.

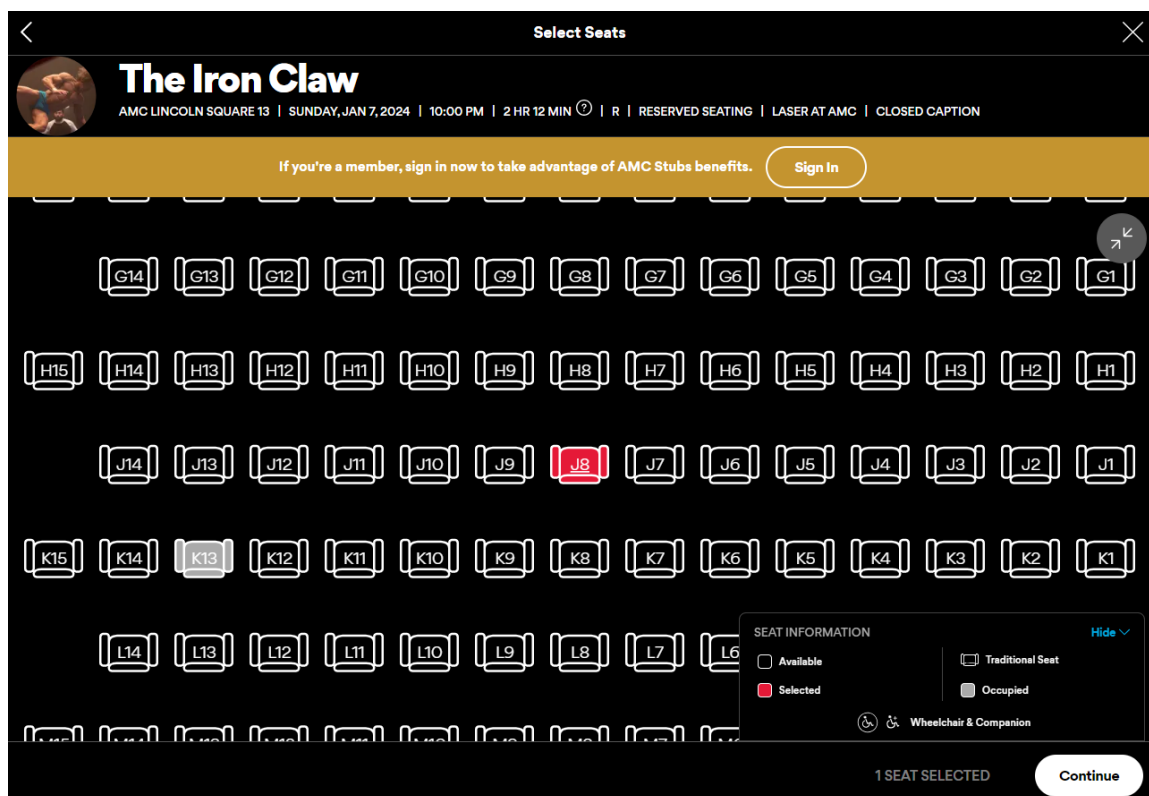


Figure 3

12. After a consumer selects the seat or seats she wishes to purchase a ticket or tickets for, she can click the “Continue” button. After the consumer clicks that button, she is taken to the Ticket Selection screen. See Figure 4, next page. On this screen, the “total cost” of the ticket is never displayed, in violation of New York Arts & Cultural Affairs Law § 25.07(4). *Id.* Instead, Defendant quotes a \$17.99 price excluding fees for an adult ticket.

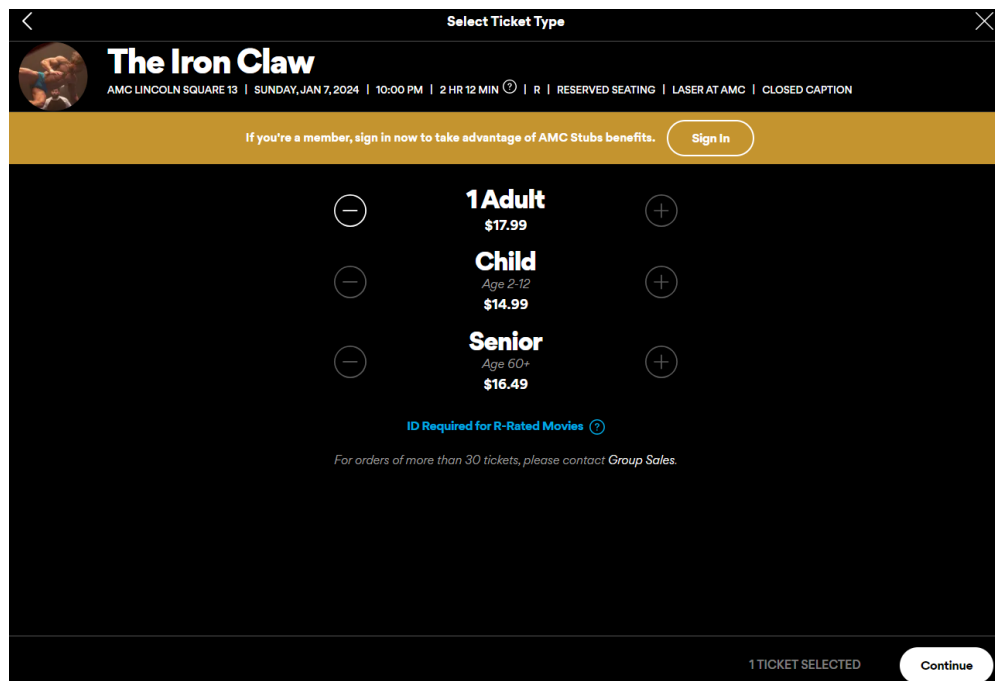


Figure 4

13. After the consumer clicks the “Continue” button on Figure 4, she is taken to an “Order Details” page that discloses a “\$2.19 Convenience Fee” and an increased \$20.18 total cost. See Figure 5. A six-minute timer on the upper right-hand side of the page emerges.

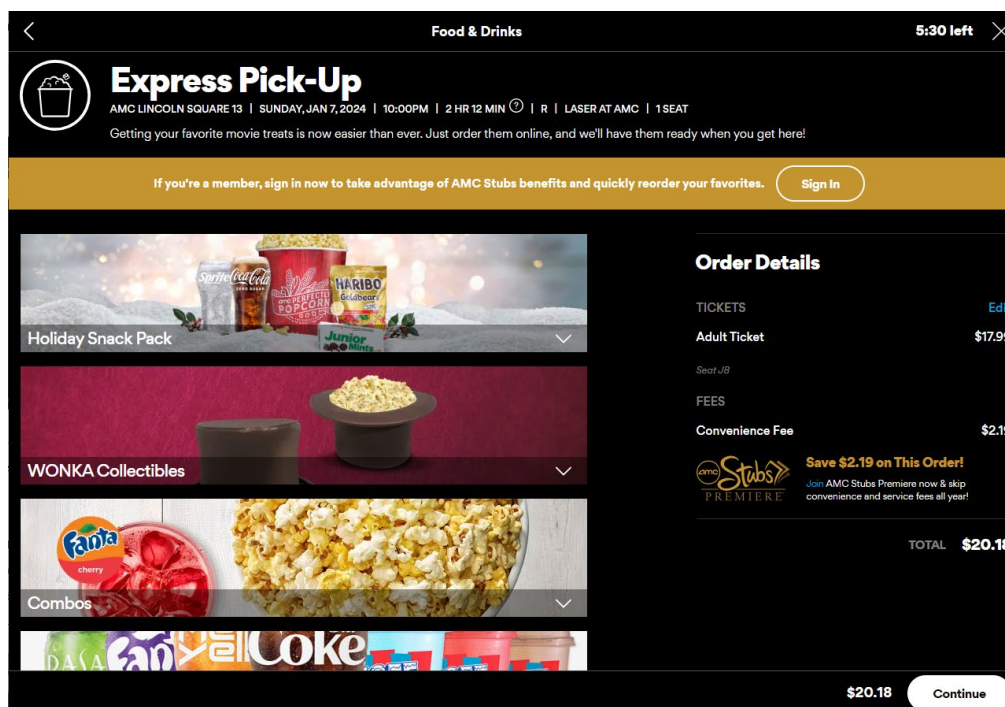


Figure 5

14. Consumers that click the “Continue” button are taken to a “Confirm Purchase” screen. Figures 6 through 8 show the screen at 100% resolution on a web browser.

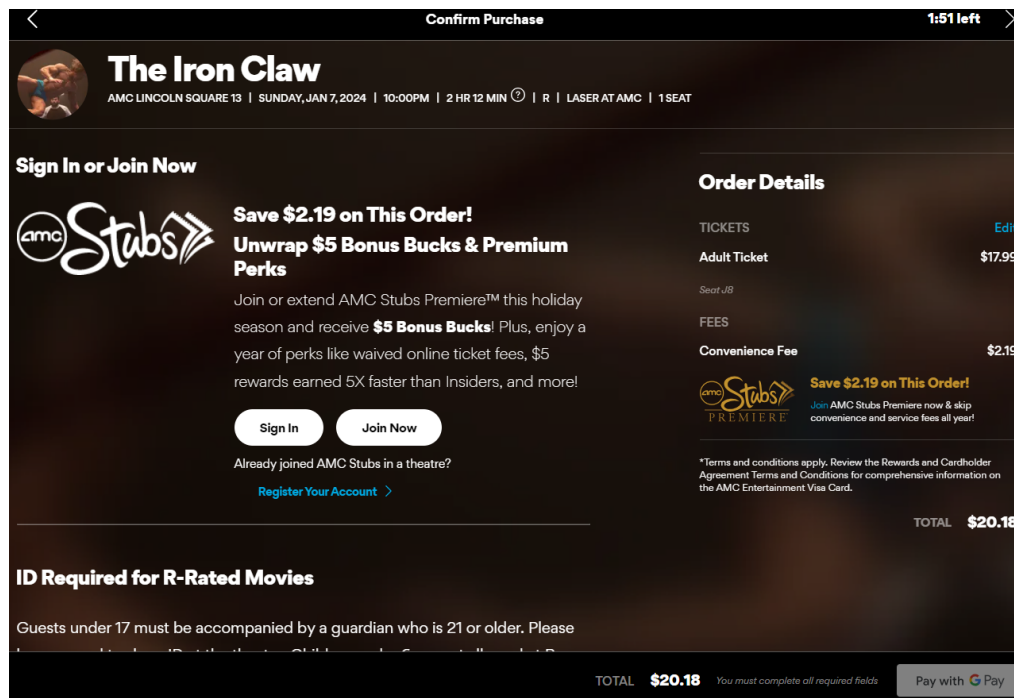


Figure 6

15. Once a consumer inputs her payment information and her contact information, the “Purchase” button appearing on the right-hand side of a sliding bar at the bottom of the screen enlightens. Depending on the payment method selected, this button may either say “Purchase”, “Pay with G Pay,” or something similar. See Figures 7-8, next page. A consumer is not required to scroll down to the bottom of the screen in order to click this button. Clicking the button on Figures 7 and 8 will complete the transaction.

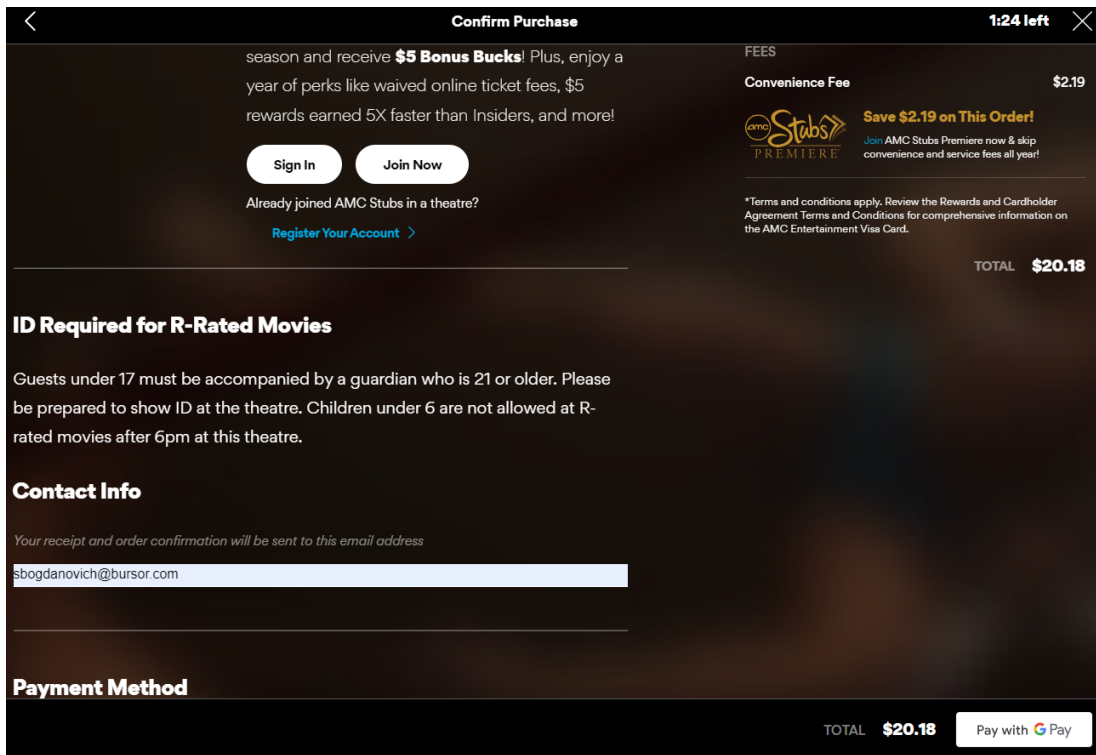


Figure 7

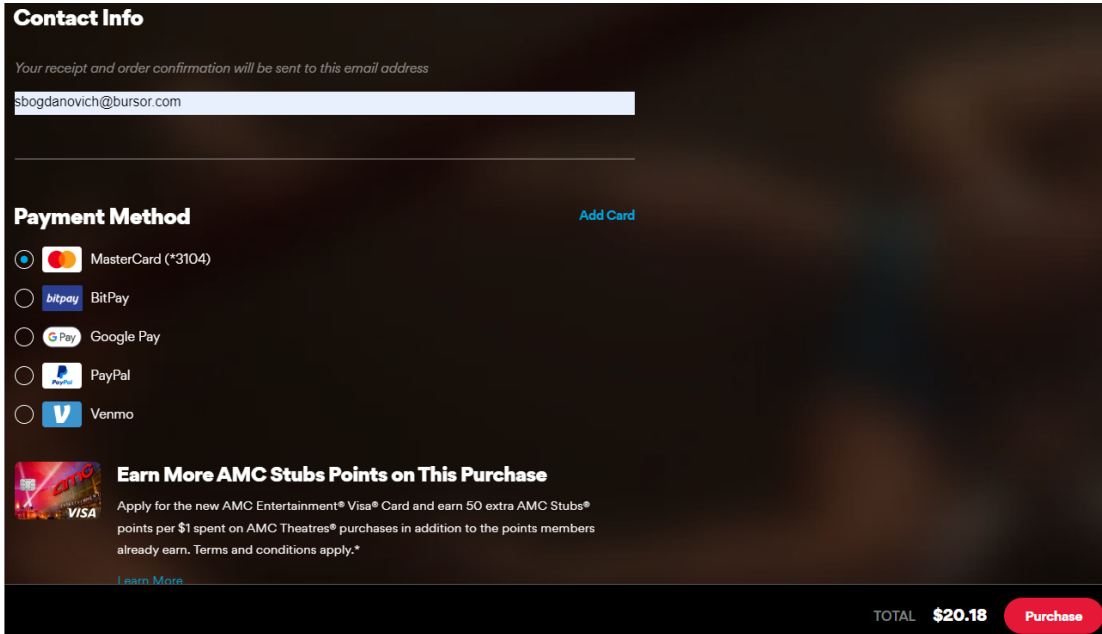


Figure 8

16. Within these six fleeting minutes, among all the other pressing tasks on the page competing for the consumer's attention is the disclosure of Defendant's "convenience fee." This fee typically ranges from two to three dollars per ticket, depending on location and type of ticket selected. Defendant's convenience fees can quickly add up. The exemplar in the complaint shows a \$2.19 fee. For a family of four, Defendant tacks on an extra \$8.76 at the end of the purchase process. That is roughly equivalent to the cost of a bucket of popcorn.

NEW YORK ARTS & CULTURAL AFFAIRS LAW

17. Effective August 29, 2022, New York enacted Arts & Cultural Affairs Law § 25.07(4), which provides that "[e]very operator or operator's agent of a place of entertainment, any licensee or other ticket reseller, or platform that facilitates the sale or resale of tickets shall disclose the total cost of the ticket, inclusive of all ancillary fees that must be paid in order to purchase the ticket, and disclose in a clear and conspicuous manner the portion of the ticket price stated in dollars that represents a service charge, or any other fee or surcharge to the purchaser. Such disclosure of the total cost and fees shall be displayed in the ticket listing prior to the ticket being selected for purchase." *Id.* (emphasis added). And "[t]he price of the ticket shall not increase during the purchase process." *Id.*; *Compare with* Figure 4. "Disclosures of subtotals, fees, charges, and any other component of the total price shall not be false or misleading." N.Y. Arts & Cult. Aff. Law § 25.07(5); *Compare with* Figure 4 and ¶ 11.

18. Shortly after the law was enacted, ticketing websites peppered the State of New York's Division of Licensing Services with questions about the scope of the law. As explained by the Division of Licensing Services, "the ticket purchasing process begins once a consumer visits a ticket marketplace and first sees a list of seat prices." *See* N.Y. Dep't of State, Div. Licens. Servs., *Request for Additional Guidance – New York State Senate Bill S.9461*, attached hereto as **Exhibit A**, at 1. "From the moment the prospective purchaser assesses the [] ticket

lists through the final payment ... there should be no price increases to the purchaser for the ticket itself.” *Id.* “When a prospective purchaser selects a ticket with full disclosure of the ticket price, the purchaser should not then have to search for the total price of the ticket as the purchaser proceeds through the purchasing process, it should continue to be readily available to the purchaser.” *Id.* at 2 (emphasis added).

CLASS ACTION ALLEGATIONS

19. **Nationwide Class:** Plaintiffs seek to represent a class defined as all individuals in the state of New York who purchased electronic tickets to any film screenings in any theatre located in New York from Defendant’s website on or after August 29, 2022 and were charged a convenience fee. Excluded from the New York Subclass is any entity in which Defendant has a controlling interest, and officers or directors of Defendant.

20. **New York Subclass:** Plaintiffs also seek to represent a subclass defined as all individuals in the state of New York who purchased electronic tickets to any film screenings in any theatre located in New York from Defendant’s website on or after August 29, 2022, and were charged a convenience fee. Excluded from the New York Subclass is any entity in which Defendant has a controlling interest, and officers or directors of Defendant.

21. Members of the Nationwide Class and New York Subclass are so numerous that their individual joinder herein is impracticable. On information and belief, members of the Nationwide Class and New York Subclass number in the hundreds of thousands.¹ The precise

¹ According to the website traffic analytics company Similarweb, Defendant’s website has received 58.97 million visits in the last three months, with 97.00% of the website traffic coming from the United States. *See* https://pro.similarweb.com/#/digitalsuite/websiteanalysis/overview/website-performance/*/999/3m?webSource=Total&key=amctheatres.com. Approximately 5.98% of the United States population resides in the State of New York. So assuming New Yorkers visited Defendant’s website in equal proportions to other Americans, then Defendant received over 3.42 million visitors from the state of New York during this time period.

number of Nationwide Class and New York Subclass members and their identities are unknown to Plaintiffs at this time but may be determined through discovery. Nationwide Class and New York Subclass members may be notified of the pendency of this action by mail, email, and/or publication through the distribution records of Defendant.

22. Common questions of law and fact exist as to all Nationwide Class and New York Subclass members and predominate over questions affecting only individual Nationwide Class and New York Subclass members. Common legal and factual questions include, but are not limited to: (a) whether Defendant failed to disclose the total cost of the ticket, including all ancillary fees, prior to the tickets being selected for purchase in violation of New York Arts & Cultural Affairs Law § 25.07(4); and (b) whether the displayed price of Defendant's tickets increases during the purchase process in violation of New York Arts & Cultural Affairs Law § 25.07(4).

23. The claims of the named Plaintiffs are typical of the claims of the Nationwide Class and New York Subclass in that the named Plaintiffs and the Nationwide Class and New York Subclass all paid a convenience fee and damages as a result of Defendant's uniform wrongful conduct, based upon Defendant failing to disclosing the total cost of their tickets, including Defendant's convenience fees, throughout the online ticket purchase process.

24. Plaintiffs are adequate representatives of the Nationwide Class and New York Subclass because their interests do not conflict with the interests of the Nationwide Class and New York Subclass members they seek to represent, they have retained competent counsel experienced in prosecuting class actions, and they intend to prosecute this action vigorously. The interests of Nationwide Class and New York Subclass members will be fairly and adequately protected by Plaintiffs and their counsel.

25. The class mechanism is superior to other available means for the fair and efficient

adjudication of the claims of Nationwide Class and New York Subclass members. Each individual Nationwide Class and New York Subclass member may lack the resources to undergo the burden and expense of individual prosecution of the complex and extensive litigation necessary to establish Defendant's liability. Individualized litigation increases the delay and expense to all parties and multiplies the burden on the judicial system presented by the complex legal and factual issues of this case. Individualized litigation also presents a potential for inconsistent or contradictory judgments. In contrast, the class action device presents far fewer management difficulties and provides the benefits of single adjudication, economy of scale, and comprehensive supervision by a single court on the issue of Defendant's liability. Class treatment of the liability issues will ensure that all claims and claimants are before this Court for consistent adjudication of the liability issues.

COUNT I

**New York Arts & Cultural Affairs Law § 25.07
(On Behalf Of The Nationwide Class and New York Subclass)**

26. Plaintiffs repeat the allegations contained in the foregoing paragraphs as if fully set forth herein.

27. Plaintiffs bring this claim individually and on behalf of the members of the Nationwide Class and New York Subclass against Defendant.

28. Defendant is a "operator or operator's agent of a place of entertainment," because Defendant owns, operates, or controls movie theatres, or is an agent for another business entity that owns, operates, or controls movie theatres. "Place of entertainment" means any privately or publicly owned and operated entertainment facility such as a theatre, stadium, arena, racetrack, museum, amusement park, or other place where performances, concerts, exhibits, athletic games or contests are held for which an entry fee is charged." N.Y. Arts & Cult. Aff. Law § 25.03(6)

(emphasis added). “‘Operator’ means any person who owns, operates, or controls a place of entertainment.” N.Y. Arts & Cult. Aff. Law § 25.03(5).

29. Defendant violated New York Arts & Cultural Affairs Law § 25.07(4) by failing to disclose the “total cost of a ticket, inclusive of all ancillary fees that must be paid in order to purchase the ticket” after a ticket is selected, as depicted in Figure 4 of this Complaint.

30. Defendant also violated New York Arts & Cultural Affairs Law § 25.07(4) by increasing the price of its tickets during the purchase process, as depicted in Figures 4-8 of this Complaint.

31. Defendant’s approximately \$2-\$3 per ticket “convenience fee” is an “ancillary fee[] that must be paid in order to purchase the ticket.” N.Y. Arts & Cult. Aff. Law § 25.07(4).

32. On or about November 21, 2023, Plaintiff Awad purchased two tickets on Defendant’s website and was forced to pay Defendant’s convenience fees for each ticket. Plaintiff was harmed by paying these convenience fees, even though that total cost was not disclosed to Plaintiff at the beginning of the purchase process, and therefore, these fees are unlawful pursuant to New York Arts & Cultural Affairs Law § 25.07(4).

33. On or about April 11, 2023, Plaintiff Picciotti purchased a ticket on Defendant’s website and was forced to pay Defendant’s convenience fee. Plaintiff was harmed by paying this convenience fee, even though that total cost was not disclosed to Plaintiff at the beginning of the purchase process, and therefore, is unlawful pursuant to New York Arts & Cultural Affairs Law § 25.07(4).

34. On behalf of themselves and members of the Class, Plaintiffs seek to enjoin the unlawful acts and practices described herein, to recover their actual damages and reasonable attorneys’ fees. *See* N.Y. Arts & Cult. Aff. Law § 25.33.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs, individually and on behalf of all others similarly situated, seek judgment against Defendant, as follows:

- (a) For an order certifying the Nationwide Class and the New York Subclass under CPLR 901 and naming Plaintiffs as representatives of the Class and New York Subclass and Plaintiffs' attorneys as Class Counsel to represent the Nationwide Class and New York Subclass members;
- (b) For an order declaring that Defendant's conduct violates the statutes referenced herein;
- (c) For an order finding in favor of Plaintiffs, the Nationwide Class, and the New York Subclass on all counts asserted herein;
- (d) For compensatory damages in amounts to be determined by the Court and/or jury;
- (e) For prejudgment interest on all amounts awarded;
- (f) For an order of restitution and all other forms of equitable monetary relief;
- (g) For injunctive relief as pleaded or as the Court may deem proper; and
- (h) For an order awarding Plaintiffs and the Nationwide Class and New York Subclass their reasonable attorneys' fees and expenses and costs of suit.

JURY TRIAL DEMANDED

Pursuant to CPLR 4102(a), Plaintiffs demand a trial by jury on all claims so triable.

Dated: April 26, 2024

Respectfully submitted,

BURSOR & FISHER, P.A.

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