



**AIMAN-SMITH MARCY**  
PROFESSIONAL CORPORATION

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**FILED**  
**ALAMEDA COUNTY**

APR 11 2019

CLERK OF THE SUPERIOR COURT  
*By [Signature]*  
Deputy

Attorneys for Plaintiffs

IN THE SUPERIOR COURT OF CALIFORNIA  
IN AND FOR THE COUNTY OF ALAMEDA

MAHMOUD AMERI, and ERIN OUBORG, each individually and on behalf of all others similarly situated,

Plaintiffs,

v.

TICKETMASTER LLC, and DOES 1-10, inclusive,

Defendants.

Case No.: RG18922688

**FIRST AMENDED CLASS ACTION COMPLAINT FOR:**

1. **Per se Violation of the Cartwright Act (Business and Professions Code § 16720, et seq.)**
2. **Violation of the Cartwright Act Under the Rule of Reason (Business and Professions Code § 16720, et seq.)**
3. **Violation of California Penal Code § 496**
4. **Unfair Business Practices (Business and Professions Code § 17200, et seq.)**
5. **Injunction (Business and Professions Code § 17200, et seq.)**

**CLASS ACTION**

**DEMAND FOR JURY TRIAL**

1 Mahmoud Ameri (“Plaintiff Ameri”) and Erin Ouborg (“Plaintiff” or “Plaintiff  
2 Ouborg”) are informed and believe and thereupon allege the following:

3 **I. INTRODUCTION**

4 1. This is a class action seeking redress for violations of California law by  
5 defendant Ticketmaster LLC (“Ticketmaster” or “Defendant”). Ticketmaster systematically  
6 orchestrates and facilitates the bulk sales of tickets on its website to professional resellers and  
7 the immediate resale of these same tickets, at inflated prices, on Ticketmaster’s secondary  
8 exchanges. By doing so, Ticketmaster receives double commissions for each ticket – first on  
9 the sale of tickets to resellers, and then on the resale of the same tickets on secondary  
10 exchanges.

11 2. To obtain these double commissions, Ticketmaster provides sophisticated,  
12 proprietary computer programs to resellers that allow the automated purchase and resale of  
13 tickets in massive quantities. Working in tandem, Ticketmaster and participating resellers  
14 artificially inflate ticket prices for millions of consumers and leverage Ticketmaster’s  
15 dominance of the primary ticket market to suppress and prevent competition in the secondary  
16 market.

17 3. By engaging in this conduct, Ticketmaster violates California law, including the  
18 Cartwright Act (Business and Professions Code § 16720), California Penal Code § 496, and  
19 California’s Unfair Competition Law (Business and Professions Code § 17200, *et seq.*).

20 4. Plaintiff brings this action, individually and as a class action under California  
21 Code of Civil Procedure § 382. The claims asserted herein are brought by Plaintiff in her  
22 capacity as class action representative on behalf of all similarly situated persons (the “Class”).

23 5. The Class consists of all persons with California addresses who, during the Class  
24 Period, purchased tickets on a Ticketmaster secondary ticket exchange that were first offered  
25 by and/or through Ticketmaster.

26 6. The Class Period is designated as the period from 4 years prior to the filing of  
27 this action through the trial date.

28 7. Plaintiff and the Class have been injured by Ticketmaster’s conduct as alleged

1 herein and seek damages, injunctive relief, penalties, interest, attorney's fees, and costs, all  
2 under California law.

3 8. All violations of law described herein have been ongoing for at least four years,  
4 are continuing at present, and will continue unless and until enjoined by this Court.

5 9. Ticketmaster knowingly and intentionally engaged in the conduct complained of  
6 herein and acted as alleged herein in willful and knowing violation of the law.

7 **II. PARTIES**

8 10. Defendant Ticketmaster LLC is a Limited Liability Company incorporated in  
9 Virginia with its headquarters and principal place of business in Beverly Hills, California.

10 11. Plaintiff Ameri is an individual and a resident of Alameda County, California.  
11 On June 16, 2017, while physically located in Fremont, California, Plaintiff Ameri used  
12 Ticketmaster's ticketing website to purchase tickets to the International Champions Cup soccer  
13 match between Real Madrid and Manchester United, to be held the following month in Santa  
14 Clara. Mr Ameri paid a total of \$292.75 for those tickets, inclusive of fees and taxes.

15 12. Plaintiff Ouborg is an individual and resident of Alameda County, California. On  
16 January 16, 2019, Plaintiff Ouborg used Ticketmaster's ticketing website to purchase  
17 Ticketmaster verified resale tickets to the Golden State Warriors basketball game that took  
18 place at the Oracle Arena on February 10, 2019 in Oakland California. Plaintiff Ouborg paid  
19 \$214.36 for those tickets, inclusive of \$15.18 per ticket in service fees.

20 13. Plaintiff is ignorant of the true names or capacities of defendants named herein as  
21 Does 1 through 10, inclusive, and therefore sues these defendants by these fictitious names.  
22 When the names and capacities of these defendants are ascertained, Plaintiff will amend this  
23 complaint accordingly. Each of the defendants named herein or designated as a Doe is liable  
24 or in some manner legally responsible for the events alleged herein.

25 **III. JURISDICTION AND VENUE**

26 14. This Court has subject matter jurisdiction of this action under California Code of  
27 Civil Procedure § 410.10 and the California Constitution, Article VI, § 10. This Court, and not  
28 the United States District Court, has subject matter jurisdiction of this class action because

1 Ticketmaster's corporate headquarters are located in California, and Ticketmaster is therefore a  
2 citizen of California, as defined by 28 U.S.C. § 1332(c)(1). Plaintiff's claims fall within 28  
3 U.S.C. §§ 1332(d)(4)(A) and (B), exceptions to the Class Action Fairness Act, because two-  
4 thirds or more of the members of the Plaintiff Class are citizens of the State of California,  
5 Ticketmaster is a citizen of California, the injuries complained of in this action occurred in  
6 California, and no other class action in California asserting the same factual allegations has  
7 been filed against Ticketmaster in the preceding three years.

8 15. This Court has specific and general personal jurisdiction over Ticketmaster  
9 because Ticketmaster is a citizen of California, has significant contacts with California by  
10 virtue of its extensive business operations in California, and has purposefully availed itself of  
11 the privileges and immunities of conducting business in California; and because Ticketmaster's  
12 affiliations with the State of California are sufficiently continuous and systematic to render  
13 Ticketmaster essentially at home in this state in that Ticketmaster has its principal place of  
14 business in California.

15 16. Venue is proper in the County of Alameda pursuant to California Code of Civil  
16 Procedure §§ 395 and 395.5 because a substantial portion of the acts or omissions giving rise  
17 to the liability alleged herein occurred in the County of Alameda.

#### 18 **IV. GENERAL ALLEGATIONS**

19 17. Tickets to live events such as concerts and sporting activities are generally sold  
20 in two markets: the primary market, wherein tickets are initially sold to consumers, and the  
21 secondary market, wherein tickets originally purchased in the primary market are resold,  
22 usually for higher prices.

23 18. Ticketmaster sells tickets primarily through its website, Ticketmaster.com. With  
24 a market share of more than 80 percent, Ticketmaster dominates the primary market for tickets.  
25 Persons who purchase tickets in the primary market and resell those tickets in the secondary  
26 market have traditionally been called "scalpers." Historically, scalpers have frequently  
27 operated by rather primitive means. An individual scalper might, for example, purchase a  
28 handful of tickets to a concert, then stand outside the concert to sell the tickets to individual

1 concert goers. In recent years, however, the scalping industry has become increasingly  
2 sophisticated, with resellers, for example, using software applications called “bots” that  
3 purchase tickets in bulk by automated means. These tickets are then resold on the internet.  
4 This process drives up the price of tickets, making live events more expensive for consumers.

5 19. Publicly, Ticketmaster vehemently denounces scalpers as harmful to consumers  
6 and purports to prohibit bulk purchases and the use of bots. In reality, however, Ticketmaster  
7 actively solicits bulk purchases from large resellers, partners with these resellers, enters into  
8 agreements and contracts with these resellers, provides computer programs and support for the  
9 automated resale of tickets at inflated prices, and reaps tremendous profits from these  
10 practices. Ticketmaster allows and encourages professional resellers to use fake identities and  
11 automated technologies – some of which are purportedly banned by Ticketmaster’s terms of  
12 service – to buy tickets in bulk from Ticketmaster.com for immediate resale on Ticketmaster’s  
13 website. This process is facilitated by “TradeDesk,” a computerized system secretly created by  
14 Ticketmaster for professional scalpers. TradeDesk enables scalpers to instantaneously resell  
15 tickets on Ticketmaster’s website, with Ticketmaster collecting a fee for both sales. The  
16 existence of TradeDesk is not disclosed to consumers, nor is Ticketmaster’s coordinated  
17 activity with large-scale, professional resellers.

18 20. By its seamless coordination with large resellers and its domination of the  
19 primary ticket market, Ticketmaster suppresses and prevents competition from other  
20 participants in the secondary ticket market, artificially manipulates supply and demand,  
21 leverages its position in the primary market to extend itself into the secondary market, and  
22 increases the prices of tickets for consumers on a massive scale. This conduct unreasonably  
23 restrains trade in the market for tickets in California by artificially removing tickets from the  
24 primary market for sale at higher prices on the secondary market, thus denying consumers  
25 access to tickets in the primary market and requiring their purchase at inflated prices in the  
26 secondary market. By engaging in this anticompetitive conduct, Ticketmaster has generated  
27 billions of dollars of revenue for itself at the expense of consumers. Ticketmaster protects this  
28 revenue and its anticompetitive position by selectively enforcing its prohibition on automated

1 technologies and fake accounts against resellers who do not participate in its scheme and who  
2 sell tickets on secondary exchanges not controlled by Ticketmaster. Moreover, Ticketmaster  
3 uses its monopoly power in the primary ticket market to improperly exclude competition in the  
4 secondary market by contracts with ticket suppliers and venues that require purchasers in the  
5 primary to use only Ticketmaster exchanges for resale.

6 21. Plaintiff has been injured in fact and has lost money and property as a result of  
7 Ticketmaster's practices, and brings her claim for public injunctive relief to prevent further  
8 harm to the public at large, which continues to face and suffer harm as a result of  
9 Ticketmaster's widespread unlawful activity. Plaintiff seeks preliminary and permanent  
10 injunctions to prohibit the Ticketmaster's ongoing unlawful acts, which threaten future  
11 deception of, and injury to, the public.

12 22. Plaintiff's claims are timely, and, additionally, facts indicating that Ticketmaster  
13 was engaging in the misconduct alleged herein were actively concealed by Ticketmaster.

#### 14 **V. CLASS ACTION ALLEGATIONS**

15 23. This class action is brought on behalf of: All persons with California addresses  
16 who, during the Class Period, purchased tickets on a Ticketmaster secondary ticket exchange  
17 that were first offered by and/or through Ticketmaster.

18 24. The claims alleged herein may properly be maintained as a class action pursuant  
19 to California Code of Civil Procedure § 382 because there is a well-defined community of  
20 interest among ascertainable class members with regard to the claims asserted in this action.

21 25. The total number of members of the Class is believed to be in excess of 50,000  
22 persons. Accordingly, joinder of all members of the Class would be impractical.

23 26. Questions of law and fact common to Plaintiff and the Class predominate over  
24 questions of law and fact affecting only individual members of the Class. These common  
25 questions of law and fact include, but are not limited to, the following:

- 26 (a) Whether Ticketmaster facilitates and participates in the automated  
27 purchase and resale of tickets by resellers to increase the price of tickets;  
28 (b) Whether Ticketmaster prevents competition in the secondary ticket market

1 by exploiting its monopoly position in the primary ticket market;

2 (c) Whether, by engaging in the conduct alleged herein, Ticketmaster makes  
3 and enters into agreements to unite interests to affect the price of tickets  
4 sold in the secondary market;

5 (d) Whether Ticketmaster's actions as described herein constitute receipt of  
6 stolen property in violation of California Penal Code section 496;

7 (e) Whether Ticketmaster's actions as described herein constitute violations  
8 of California Business and Professions Code § 17200, *et seq.*;

9 (f) The proper formula for calculating damages and restitution owed to  
10 Plaintiff and Class Members;

11 (g) Whether Ticketmaster will, unless enjoined, continue the practices alleged  
12 herein; and

13 (h) The terms and conditions of the injunction to be issued against  
14 Ticketmaster.

15 27. The identities of the members of the Class are ascertainable from available  
16 records maintained by Ticketmaster or by third parties.

17 28. Plaintiff's claims are typical of the claims of the Class because Plaintiff was  
18 subjected to the unlawful practices alleged herein common to the Class. Ticketmaster's  
19 common course of conduct has caused Plaintiff and the Class to sustain the same or  
20 substantially similar injuries and damages caused by the same practices of Ticketmaster, and  
21 Plaintiff's claims are, therefore, representative of the claims of Plaintiff Class.

22 29. Plaintiff has no conflict of interest with any other members of Class, and Plaintiff  
23 will vigorously prosecute this case on behalf of Class.

24 30. Counsel who represent Plaintiff are competent and experienced in litigating  
25 complex actions. Plaintiff and her counsel will fairly and adequately represent and protect the  
26 interests of the members of the Class.

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1 VI. CAUSES OF ACTION

2 FIRST CAUSE OF ACTION  
3 Per Se Violation of the Cartwright Act  
(California Business & Professions Code § 16720)

4 31. Plaintiff incorporates by reference all preceding paragraphs as though fully set  
5 forth herein.

6 32. As alleged herein, Ticketmaster by and through its officers, directors, employees,  
7 agents, or representatives, entered into and engaged in an unlawful contract, combination, and  
8 conspiracy in restraint of trade and commerce and to affect the price of articles in trade, and  
9 acted in a combination of capital, skills, and/or acts to increase the price of merchandise, in  
10 violation of the Cartwright Act, California Business and Professions Code § 16720.

11 33. Plaintiff and the members of the Class are proper entities to bring a case  
12 concerning this conduct.

13 34. Ticketmaster’s activities as alleged herein are per se violations of the Cartwright  
14 Act, California Business and Professions Code § 16720.

15 35. Plaintiff and the Class have suffered antitrust injury and have been injured in  
16 their business and property as a result of Ticketmaster’s unlawful acts as herein alleged.

17 36. Plaintiff seeks damages according to proof, which damages shall be  
18 automatically trebled pursuant to the Cartwright Act, California Business and Professions Code  
19 § 16750(a).

20 37. Further, Plaintiff seeks an injunction against further wrongful acts of  
21 Ticketmaster pursuant to the Cartwright Act, California Business and Professions Code §  
22 16750(a).

23 38. Plaintiff is automatically entitled to reasonable attorney’s fees pursuant to the  
24 Cartwright Act, California Business and Professions Code § 16750(a).

25 39. Plaintiff is automatically entitled to costs of suit pursuant to the Cartwright Act,  
26 California Business and Professions Code § 16750(a).

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**THIRD CAUSE OF ACTION**  
**Violation of the California Penal Code § 496**

1  
2           49. Plaintiff incorporates by reference all preceding paragraphs as though fully set  
3 forth herein.

4           50. Penal Code § 484 defines the crime of theft, and, as is relevant here, prohibits  
5 knowingly and designedly taking the money or property of another by false or fraudulent  
6 representations or pretenses.

7           51. A violation of Penal Code § 484 is established by evidence that a person made a  
8 false pretense or representation with the intent to defraud the owner of his property, and that  
9 the owner was thus deprived of his property.

10           52. Penal Code § 496(a) prohibits the concealing and selling of property known to  
11 have been obtained in any manner constituting theft.

12           53. Ticketmaster's Terms of Use and Purchase Policy each prohibit ticket purchasers  
13 from purchasing more than a limited number of tickets per event. This limit is known as the  
14 "ticket limit."

15           54. Ticketmaster's Terms of Use also prohibit users from impersonating others, and  
16 submitting content or information that is fraudulent.

17           55. Scalpers use manual or automatic means to purchase first-hand tickets via  
18 Ticketmaster in excess of the ticket limit, including by providing false information that  
19 includes the purchaser's name, email address, contact information, IP address, and other  
20 information.

21           56. By purchasing first-hand tickets in excess of the ticket limit and using falsified  
22 information, scalpers knowingly and designedly take the property of the original ticket seller  
23 by false or fraudulent representations or pretenses, in violation of Penal Code § 484.

24           57. Scalpers then sell those same tickets second-hand to consumers using  
25 Ticketmaster's fan-to-fan ticket marketplace, at prices normally far in excess of the price paid  
26 for the original ticket.

27           58. When scalpers submit tickets for sale on Ticketmaster's fan-to-fan ticket  
28

1 marketplace, Ticketmaster acts as agent of the scalpers, and assumes dominion and control  
2 over the tickets while they remain offered for sale.

3 59. Ticketmaster knows or had reason to know that scalpers resell tickets purchased  
4 in excess of the ticket limit and by using falsified information.

5 60. Alternatively, Ticketmaster's principal business, or one of its principal  
6 businesses, is dealing in event tickets, which are personal property. Similarly, in facilitating  
7 the resale of second-hand tickets, Ticketmaster acts as the agent of scalpers, who are persons  
8 whose principal business is dealing in personal property. Pursuant to Penal Code § 496-496(b),  
9 Ticketmaster is accordingly subject to a duty to make reasonable inquiry into whether property  
10 listed for sale in its marketplace is stolen.

11 61. Ticketmaster fails to make a reasonable inquiry into whether property listed for  
12 sale in its marketplace is stolen, and is accordingly presumed to have knowledge that the  
13 tickets sold by scalpers in its marketplace are stolen.

14 62. Regardless of how Ticketmaster's knowledge is established, by knowingly aiding  
15 scalpers in reselling tickets that the scalpers purchased in excess of the ticket limit and using  
16 falsified information, Ticketmaster receives stolen property in violation of Penal Code  
17 § 496(a).

18 63. Ticketmaster's violations of Penal Code § 496, as alleged above, are a substantial  
19 factor in causing injury to Plaintiff and the other members of the Class.

20 64. As a result of Ticketmaster's violations of Penal Code § 496, Plaintiff and the  
21 other members of the Class have suffered harm that includes but is not limited to the increased  
22 price paid for event tickets, the loss of such additional amounts of money each would have  
23 received had he or she not been the victim of those violations, and the lost use-value of the  
24 money so deprived.

25 65. For those harms occurring within the Class Period, Plaintiff and the other  
26 members of the Class seek compensatory damages at three times the amount of the actual  
27 damages, prejudgment interest, reasonable attorneys' fees, and costs of suit, all pursuant to  
28 Penal Code §496 (c), and in an amount according to proof at trial.



1 75. Unless enjoined by this Court, Ticketmaster will continue to engage in the  
2 unlawful and unfair practices alleged herein.

3 76. Plaintiff is entitled to, and therefore requests, an injunction of this Court  
4 requiring that Ticketmaster permanently cease and desist from engaging in the unlawful and  
5 unfair practices alleged herein, and, further, that this Court make such orders as are necessary  
6 to monitor Ticketmaster's compliance with said injunction.

7 77. Plaintiff is entitled to costs and attorney's fees for pursuing the injunction  
8 requested herein.

9 **VII. PRAYER FOR RELIEF**

10 Wherefore, Plaintiff, on behalf of herself and the Class, pray for relief as follows:

11 1. That the Court certify this action as a class action on behalf of the Class pursuant  
12 to California Code of Civil Procedure § 382;

13 2. That the Court designate Plaintiff as representative of the Class;

14 3. That the Court appoint the law firm Aiman-Smith & Marcy as Class counsel;

15 4. That the Court adjudge and decree that Ticketmaster's acts as herein alleged  
16 violate the Cartwright Act, California Business & Professions Code §16720, *et seq.*;

17 5. That Ticketmaster be ordered to pay all amounts owed to the Class arising out of  
18 the actions complained of herein, including penalties, interest, and costs;

19 6. That Ticketmaster, at its own expense, be ordered to provide full and adequate  
20 notice as required in class actions to all members of the Class;

21 7. That this action and the Class be further designated, respectively, as a  
22 representative action and a representative class under California Business & Professions Code  
23 § 17200, *et seq.*;

24 8. That Ticketmaster be ordered to make full restitution of all amounts received  
25 and/or retained and/or not paid to Plaintiff and the Class by Ticketmaster pursuant to California  
26 Business and Professions Code § 17200, *et seq.*;

27 9. That in addition to any constitutionally sufficient notice that is or might  
28 otherwise be required in a class action under California law, that Ticketmaster be ordered to

1 pay for all necessary efforts to actually locate members of the representative class under  
2 Business and Professions Code § 17200, *et seq.*;

3 10. That this Court determine, and provide its declaratory judgment, that the  
4 practices complained of herein were done willfully, knowingly, and intentionally;

5 11. That this Court issue a temporary injunction, on terms the Court may deem  
6 appropriate and necessary, prohibiting Ticketmaster from engaging in the practices complained  
7 of herein pending trial of this action, and requiring Ticketmaster to make appropriate reports to  
8 the Court or its appointed agent or expert regarding its compliance with said injunction, and  
9 requiring Ticketmaster to pay all costs associated with said monitoring said injunction;

10 12. That this Court issue a permanent injunction, on terms the Court may deem  
11 appropriate and necessary, prohibiting Ticketmaster from engaging in the practices complained  
12 of herein, requiring Ticketmaster to make appropriate reports to the Court or its appointed  
13 agent or expert regarding its compliance with said injunction, and requiring Ticketmaster to  
14 pay all costs associated with monitoring said injunction;

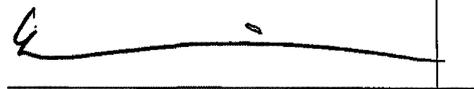
15 13. For attorney's fees as provided by statutory and common law;

16 14. For costs of suit incurred; and

17 15. For such other legal and equitable relief as the Court may deem just and proper.

18  
19 Dated: April 11, 2019

AIMAN-SMITH MARCY  
A PROFESSIONAL CORPORATION

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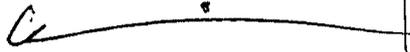
22 Brent A. Robinson  
23 Attorneys for Plaintiffs

**DEMAND FOR JURY TRIAL**

**Plaintiff**, on behalf of herself and the Class, hereby demands a jury on all causes of action and claims with respect to which **Plaintiff** and the Class have a right to a jury trial.

Dated: April 11, 2019

AIMAN-SMITH MARCY  
A PROFESSIONAL CORPORATION



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Brent A. Robinson  
Attorneys for Plaintiffs

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