C2023-0884D No	C2023-0884D 5/15/2023 12:59 PM Heather N. Kellar Comal County District Clerk Accepted By: Shawna Frakes
The State of Texas,	
Plaintiff,	
v.	433rd District Court
HYATT HOTELS CORPORATION, HYATT CORPORATION, and HYATT FRANCHISING, LLC,	Comal County, Texas

FILED

Defendants.

PLAINTIFF'S ORIGINAL PETITION

NOW COMES Plaintiff, THE STATE OF TEXAS, acting by and through the Attorney General KEN PAXTON and on behalf of the public interest, complaining of Defendant HYATT HOTELS CORPORATION, HYATT CORPORATION, and HYATT FRANCHISING, LLC (together, "Hyatt"), which engaged in false, misleading, and deceptive acts and practices in violation of § 17.46 (a) and (b) of the Texas Deceptive Trade Practices Act ("DTPA"), Tex. Bus. & Com. Code Ch. 17.

I. NATURE OF THE STATE'S CASE

1. Consumers are often surprised by mandatory hotel fees that are belatedly added to their daily room rate. Hotels sometimes refer to these hidden mandatory costs as facilities, service, residence, incidental, destination, or resort fees. For years Hyatt has used mandatory fees to dupe unsuspecting Texans by not including mandatory fees in the advertised room rate. This lack of transparency is designed to thwart comparison shopping; consequently, it places hotels that do not charge mandatory fees at a competitive disadvantage. And, while these fees and billing practices may appear nominal to individual consumers, in the aggregate they amount to millions of dollars

in fraudulent charges. This misleading and anti-competitive practice harms consumers and violates the DTPA.

A. Discovery Control Plan

2. The discovery in this case is intended to be conducted under Level 3 pursuant to Texas Rule of Civil Procedure 190.4.

3. The monetary relief sought in this case is within the jurisdictional limits of this court. This lawsuit is not subject to expedited discovery under Texas Rules of Civil Procedure 47 and 169 because the relief sought by the State includes a monetary amount over \$1,000,000 and also includes a request for non-monetary relief in the form of permanent injunctive relief.

B. Defendant

4. Hyatt Hotels Corporation is a Delaware for-profit corporation headquartered in Chicago, Illinois, that does business nationwide, including in Texas. Hyatt Hotels Corporation is not registered with the Texas Secretary of State, does not maintain a regular place of business in Texas, and does not have a designated agent in Texas for service of process. Therefore, because this lawsuit arises from its business in Texas, as alleged below, the Texas Secretary of State is the agent of process for this Defendant. Defendant Hyatt Hotels Corporation may thus be served with citation by serving the Texas Secretary of State for delivery of process by certified mail, return receipt requested, to Defendant Hyatt Hotels Corporation's President, Mark S. Hoplamazian at 150 N. Riverside Plaza, Chicago, IL 60606.

5. Hyatt Corporation is a subsidiary of Hyatt Hotels Corporation and is also a Delaware forprofit corporation headquartered in Chicago, Illinois, that does business nationwide, including in

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Texas. It may be served through its registered agent, United States Corporation Co., located at 211 E. 7th St., Suite 620 Austin, Texas 78701.

6. Hyatt Franchising, LLC is a subsidiary of Hyatt Hotels Corporation and is a Delaware limited liability company headquartered in Chicago, Illinois, that does business nationwide, including in Texas. Hyatt Franchising, LLC is not registered with the Texas Secretary of State, does not maintain a regular place of business in Texas, and does not have a designated agent in Texas for service of process. Therefore, because this lawsuit arises from its business in Texas, as alleged below, the Texas Secretary of State is the agent of process for this Defendant. Defendant Hyatt Franchising, LLC may thus be served with citation by serving the Texas Secretary of State for delivery of process by certified mail, return receipt requested, to Defendant Hyatt Franchising, LLC at 150 N. Riverside Plaza, Chicago, IL 60606.

C. Jurisdiction

7. This enforcement action is brought by the Attorney General of Texas, Ken Paxton, through the Office of the Attorney General and its consumer protection enforcement authority under the DTPA in the name of the State of Texas and in the public interest, pursuant to the authority granted to him by § 17.47 of the DTPA upon the ground that Hyatt has engaged in false, deceptive, and misleading acts and practices in the course of trade and commerce as defined in, and declared unlawful by, § 17.46 of the DTPA.

8. In enforcement suits filed pursuant to § 17.47 of the DTPA, the Attorney General is authorized to seek civil penalties, court-ordered and administered redress for consumers, and injunctive relief.

D. Venue

9. Comal County is a proper venue under § 17.47(b) of the DTPA because transactions made part of this suit occurred in Comal County.

E. Public Interest

10. The State has reason to believe that Hyatt is engaging in, has engaged in, or is about to engage in the unlawful acts or practices set forth below; that Hyatt has, by means of these unlawful acts and practices, caused damage to, or acquired money or property from persons; and that Hyatt adversely affected the lawful conduct of trade and commerce, thereby directly or indirectly affecting the people of this state. Therefore, the Office of the Attorney General is of the opinion that these proceedings are in the public interest.

F. Trade and Commerce

11. Hyatt has, at all times described below, engaged in conduct that constitutes "trade" and "commerce" as those terms are defined by § 17.45(6) of the DTPA.

G. Notice Before Suit

12. The Office of the Attorney General informed Hyatt in general of the alleged unlawful conduct described below, at least seven days before filing suit, as may be required by § 17.47(a) of the DTPA.

II. FACTUAL ALLEGATIONS

13. Hyatt is a global hospitality company that manages, owns, licenses, or franchises more than 1,150 hotels and properties in more than 70 countries. It advertises and promotes its hotel rooms under many brand names, including, but not limited to, Grand Hyatt, Hyatt Regency, Hyatt Place, and Thompson Hotels. Like other large hotel chains, consumers can book a hotel room with Hyatt by phone or through its corporate website, its mobile app, or third-party online travel agencies ("OTAs"), such as Hotels.com. At all times relevant, Hyatt had, and continues to have, control over the content and advertising displayed on its website.

14. As further detailed below, Hyatt is violating Texas law by marketing hotel daily room rates at prices that are not available as advertised. Hyatt, specifically, violates the DTPA by changing the final room rate during checkout, not including the mandatory fees in the quoted price, and billing consumers twice for the same mandatory charges (as a "fee" and then as a "tax"). See generally David Adam Friedman, Regulating Drip Pricing, 31 STAN. L. & POL'Y REV. 51, 101 (2020) (stating that sellers have constructed scenarios through which they conceal the entire price of an offering until it would become irrational for a buyer to discontinue a transaction; that buyers begin transactions expecting to attain specific results, and if confronted with extra steps required to attain that result, they may consider an exit; but that buyers subsequently realize they cannot leave without incurring incremental search costs); see also id. at 53 ("Serious deception concerns emerge where sellers advertise a price for an offering, but buyers cannot attain the offering after starting the transaction without paying a secondary charge. The [Federal Trade Commission] informally defines "drip pricing" as a "technique in which firms advertise only part of a product's price and reveal other charges later as the customer goes through the buying process. The additional charges can be mandatory charges . . . or fees for optional upgrades and add-ons.").

15. Hyatt's lack of transparency in advertising thwarts consumers' comparison shopping, misleads consumers about the true room rate, and places hotels that do not engage in similarly

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deceptive practices at a competitive disadvantage. In some cases, it fails to provide the goods, services, or vouchers purportedly covered by the fee.

16. The initial price displayed online for room rates at Hyatt properties that charge mandatory fees do not include the fees as a component of the room charges; consequently, consumers who use the "sort by price" function on OTA and Hyatt websites do not receive a true price list of room rates because the mandatory fees are not included in the advertised pricing.

17. Hyatt's practice of omitting mandatory fees from the quoted room rate causes consumers to mistakenly believe that the cost of a room at a Hyatt property is more affordable than its competitors.

18. Take, for example, Hyatt Regency Hill Country Resort and Spa, in San Antonio. A room at Hyatt Regency Hill Country Resort and Spa for May 12, 2023, is advertised at a rate of \$408. Hyatt does not disclose that there is a mandatory fee in the quoted rate.



19. Consumers who click on the advertised \$408 "View Rates" tab are taken to the next page, where they discover that there is a mandatory fee of "\$35 plus tax"—but only if they examine the fine print. The mandatory fee purports to cover "two complimentary bottles of water per day, golf bag storage, full use of golf practice facilities, bike rental, discounted spa access and more."¹ Hyatt nevertheless on that very page repeats the quoted rate of \$408 without including the mandatory fee.

¹ Of course, by definition the bottled waters are not "complimentary."



Hyatt Regency Hill Country Resort and Spa

9800 Hyatt Resort Drive San Antonio, Texas, 78251 United States +1 210 647 1234 Visit Hotel Website 📑 🗎 Points Calendar



20. Consumers selecting the "Select" link are taken to the booking screen, where they are again quoted the \$408 rate without the \$35 mandatory daily fee. The "Price Summary" displays only the cost of the "1 Night Stay" at \$407.70 and "Taxes & Fees" at \$119.23, for a total of \$526.93; the mandatory fee remains undisclosed. To further disguise the fee, Hyatt's default

layout of the price summary does not include an expanded view and breakdown of the charged

"Taxes & Fees."

Image: Watter Regency Hill Country Resort and Spa Image:	Price Summary 1 Night Stay Taxes & Fees Show Price Details Total Cost Per Room* *Changes in taxes or fees will affect the total price.	\$407.70 \$119.23 \$526.93
() Sign In for faster booking, or continue as a guest.	Earn \$300 in Hyatt credit	
Contact Information Prefix Given / First Name - •	Plus, 10,000 Bonus Points	\$526.93 -\$300.00
Email	Total After Hyatt credit:	\$226.93
Phone Number	LEARN MORE & APPLY NOW [] This reservation will be held while you learn more. Price for st credit may post on separate statements.	ay and Hyatt
Text Me Update (Optional) By turning on the switch, I provide my signature to agree to receive automated texts with info about reservations, offers & promos from Hyatt and its agents to the number I provided. Consent to texts is not a requirement or condition of purchase. Msg & data rates apply. I agree to the Terms		

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21. Only if a consumer clicks "Show Price Details" are the hidden fees revealed. Hyatt buries the fee in the "Taxes & Fees" section of the payment summary, thereby disguising it and leading consumers to believe that it is government-imposed. The mandatory fee is \$40.86, which includes the original \$35 fee plus the 6% state Hotel Occupancy Tax ("HOT"), 7% local HOT, 2% convention Center expansion tax, and 1.75% Bexar County tax. This is a tacit acknowledgement by Hyatt that the mandatory fee is part of the room rate—the same occupancy taxes are applied to both charges.

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	0	tt Regency Hill Country Resort and	Price Summary	
REGENCY	Spa		1 Night Stay	\$407
	1 King	g Bed with Balcony	Fri, May 12	\$407
		ay 12, 2023 - Sat, May 13, 2023	Taxes & Fees	\$119
79		m, 1 Guest Now And Save 10%	TOURISM PID	\$5
	Book		OCCUPANCY TAX	\$69
			RECOVERY CHARGE	\$3
() Sign In for faster booking, or continue as a guest.		REC CHG SALES TX	\$0	
		RESORT FEES	\$40	
			Hide Price Details 🔿	
Contact Information			Total Cost Per Room*	\$526
Prefix Given / First Na	me	Surname / Last Name	*Changes in taxes or fees will affect the total price.	

22. Nowhere in the booking process did Hyatt quote the consumer a room rate of \$442.70, which is the actual room charge with the mandatory fee.

23. The mandatory fee, after taxes, adds nearly 10% to the advertised price of \$408.

24. Hyatt Regency Hill Country Resort and Spa has approximately 500 guest rooms. The \$40.86 mandatory fee with tax, extrapolated over the course of a year for every room, amounts to \$7,456,950 in fraudulent charges.

25. Hyatt engages in similar practices at other Texas locations. For example, Hyatt quotes a room rate of \$261 at the Hyatt Residence Club San Antonio, Wild Oak Ranch, in San Antonio for May 12, 2023. It does not disclose that there is a mandatory fee in the quoted rate.

WORLD OF HYATT® Explore ~ Offers Meetings & Events	Loyalty Program \vee	Language Sign In or Join V
Q San Antonio, Texas, United 🛗 Fri, May	12 - Sat, May 13 🖉 1 Room, 1 Guest	EDIT
2 Results 🗧 Filter & Sort (1)		Мар
With Regency Hill Country Resort and Spa **\$(2402) 15.ml **\$(2402) 15.ml **\$(2402) 15.ml **\$(2402) 15.ml ** **\$(2402) 15.ml ** ************************************	Covernment Covernment Natural Ares TT TAL State Covernment Covernm	And Park And Pa

26. Consumers who click on the advertised \$261 "View Rates" tab are taken to the next page, where a \$22 (plus tax) daily mandatory fee for all rooms is disclosed, but not included in the advertised room rate. The fee purportedly includes "self-parking, internet, faxes (U.S. only) concierge services, and certain phone charges and recreational activities."





One Bedroom

Enjoy the charm of Texas ranch-style décor in a spacious one-bedroom residential-style condominium decorated with leather furnishings, rich wood and authentic artwork. Featuring a furnished private balcony or patio, large living room with full-size sleeper sofal diping area perfect for \$261 Avg/Night (USD) SELECT 27. Nonetheless, consumers selecting the "Select" link are taken to the booking screen where they are again quoted the \$261 rate without the \$22 mandatory daily fee included. The "Price Summary" only displays the cost of the "1 Night Stay" at \$261.10 and "Taxes & Fees" at \$72.51, for a total of \$332.61; the mandatory fee remains undisclosed. To further disguise the fee, Hyatt's default layout of the price summary does not include an expanded view and breakdown of the charged "Taxes & Fees."

Hyatt Residence Club San Antonio, Wild Oak Ranch One Bedroom Fri, May 12, 2023 - Sat, May 13, 2023 1 Room, 1 Guest Member Rate	Price Summary 1 Night Stay \$260.10 Taxes & Fees \$72.51 Show Price Details ∨ \$70.10 Total Cost Per Room* \$332.61 *Changes in taxes or fees will affect the total price.
To book the Member Rate you've selected, Sign In or join World of Hyatt on this page.	Earn \$300 in Hyatt credit
Contact Information Prefix Given / First Name - - Surname / Last Name	Plus, 10,000 Bonus Points Price For Stay: \$332.61 Hyatt credit: -\$300.00
Email Phone Number	Total After Hyatt credit: \$32.61 LEARN MORE & APPLY NOW []
US +1 •	This reservation will be held while you learn more. Price for stay and Hyatt credit may post on separate statements.

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28. Only if a consumer clicks "Show Price Details" are the hidden fees revealed. Hyatt imbeds the fee in the "Taxes & Fees" section of the payment summary, thereby disguising the fee and leading consumers to believe that it is government-imposed. Hyatt has also changed the mandatory fee, increasing the disclosed rate of \$22 to \$25.69, a change of 15.48%. The mandatory fee adds nearly 10% to the advertised price of \$261.

29. Only if a consumer clicks "Show Price Details" are the hidden fees revealed. Hyatt embeds the fee in the "Taxes & Fees" section of the payment summary, thereby disguising it and leading consumers to believe that it is government-imposed. The mandatory fee is \$25.69, which includes the original \$22 fee plus at the 6% state HOT (\$1.32), 7% local HOT (\$1.54), 2% convention center expansion tax (\$0.44), and 1.75% Bexar County tax (\$0.39). This is a tacit admission by Hyatt that the mandatory fee is part of the room rate—as the same taxes are applied to both charges.

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+Rc	Hyatt Residence Club San Antonio, Wild	Price Summary	
HYATT RESIDENCE CLUB	Oak Ranch	1 Night Stay	\$260.10
	One Bedroom	Fri, May 12	\$260.10
23	Fri, May 12, 2023 - Sat, May 13, 2023 1 Room, 1 Guest	Taxes & Fees	\$72.51
	Member Rate	CITY TAX	\$23.41
		OCCUPANCY TAX	\$3.25
		STATE TAX	\$15.61
i) To book the Member Rate you've selected, Si	ign In or join World of Hyatt on this page.	COUNTY TAX	\$4.55
		RESORT FEES	\$25.69
		Hide Price Details 🔨	
Contact Information		Total Cost Per Room*	\$332.61
Prefix Given / First Name	Surname / Last Name	*Changes in taxes or fees will affect the total price.	

30. Nowhere in the booking process did Hyatt quote the consumer a room rate of \$282.10, which is the actual room charge with the mandatory fee.

31. Hyatt Residence Club San Antonio, Wild Oak Ranch has approximately 288 guest rooms. The \$25.69 mandatory fee plus tax, extrapolated over the course of a year for every room amounts to **\$2,700,532.80** in fraudulent charges.

32. Consumers who book multiple rooms are required to pay multiple mandatory fees, even though their use of the included amenities does not increase correspondingly.

33. In all of these cases, Hyatt charges disabled consumers the same mandatory fees, even if they are unable to included amenities.

34. Hyatt charges consumers mandatory fee even if the included amenities are unavailable or closed.

35. Hyatt, upon information and belief, charged consumers mandatory fees for amenities that were unavailable during the COVID-19 pandemic.

36. Hyatt's misrepresentations of its room rates are a practice labeled by the FTC as "bait advertising."²

37. Hyatt relies on consumers' either not noticing the hidden fees or becoming too fatigued in the search process to cancel the transaction. Belated, eventual disclosure does not cure the deception in the initial advertised price.³

38. Hyatt employs the same or similar practices at its hotels across the state of Texas and across the world at hotels it advertises to consumers in the state of Texas.

III. DTPA VIOLATIONS

39. Hyatt, as alleged above, has in the course of trade or commerce engaged in false, misleading, and deceptive acts and practices declared unlawful, in § 17.46(a) and (b) of the DTPA as follows:

- a. Engaging in false, misleading, or deceptive acts or practices in the conduct of trade or commerce in violation of DTPA § 17.46(a);
- Representing that goods or services have sponsorship, approval, characteristics, ingredients, uses benefits, or quantities that they do not have in violation of DTPA § 17.46(b)(5);
- c. Advertising goods or services with intent not to sell them as advertised in violation of DTPA § 17.46(b)(9);
- d. Representing that an agreement confers or involves rights, remedies, or obligations which it does not have in violation of DTPA § 17.46(b)(12); and

² "No advertisement containing an offer to sell a product should be published when the offer is not a bona fide effort to sell the advertised product." 16 C.F.R. § 238.1.

³ "Even though the true facts are subsequently made known to the buyer, the law is violated if the first contact or interview is secured by deception." 16 C.F.R. § 238.2.

e. Failing to disclose information concerning services which was known at the time of the transaction if such failure to disclose information was intended to induce the consumer into a transaction into which the consumer would not have entered had the information been disclosed, in violation of DTPA § 17.46(b)(24).

IV. TRIAL BY JURY

40. The State herein requests a jury trial and tenders the jury fee to the District Clerk's office as required by Tex. R. Civ. P. 216 and Tex. Gov't Code § 51.604.

V. WRIT TO ISSUE WITHOUT BOND

41. The State requests that the Clerk issue appropriate writs of injunction to enforce any injunction or temporary restraining order issued by this Court in conformity with the law, and that those writs be issued and be effective without the execution and filing of a bond, as the bond requirements do not apply to the State. Tex. Bus. & Com. Code § 17.47(b).

VI. PRAYER

42. The State prays that Hyatt be cited according to law to appear and answer and that upon final hearing a permanent injunction be issued, restraining and enjoining Hyatt, its officers, agents, servants, employees, and attorneys, and those persons in active concert or participation with Hyatt who receive actual notice of the injunction by personal service or otherwise from the following acts and practices:

- a. Advertising prices for hotel rooms that are false or misleading;
- b. Advertising goods or services with intent not to sell them as advertised by advertising a room rate that separately lists any line items that comprise the price that a consumer will be asked to pay for lodging without providing the total price, exclusive of government taxes, as the largest and most prominently displayed price in type and size on the same page as any other price advertisement;

- c. Making false or misleading statements of fact concerning the reasons for, existence of, or amount of price reductions by advertising sale prices of hotel rooms that do not include mandatory fees charged by the hotel;
- d. Advertising the price of a hotel room to consumers through an online price sorting function that sorts by a price other than the total cost of the room;
- e. Failing to disclose any mandatory fee separate from taxes or other government-imposed fees when listing line items that comprise any price that a consumer will be asked to pay for lodging; and
- f. Failing to disclose the total price a consumer must pay per night for a hotel room, including any mandatory fee payable to the hotel, in the initial advertised price of that hotel room.
- 43. The State further prays that the Court:
- a. Order Hyatt to pay civil penalties not to exceed \$10,000 per violation of the DTPA to the State of Texas;
- b. Grant a judgment against Hyatt and order Hyatt to restore all money or other property acquired by means of unlawful acts or practices;
- c. Order the disgorgement of Hyatt's assets, as provided by law;
- d. Order Hyatt to pay pre-judgment and post-judgment interest on all awards of restitution or civil penalties, as provided by law; and
- e. Grant a judgment against Hyatt and order Hyatt to pay the State's attorneys' fees and costs of Court as provided by the laws of the State of Texas, including but not limited to, Tex. Gov't Code § 402.006(c).
- 44. The State further respectfully prays for all other relief to which the State may be justly

entitled.

Dated May 15, 2023.

KEN PAXTON Attorney General of Texas

BRENT WEBSTER First Assistant Attorney General

GRANT DORFMAN Deputy First Assistant Attorney General

SHAWN COWLES Deputy Attorney General for Civil Litigation

Office of the Attorney General General Litigation Division P.O. Box 12548, Capitol Station Austin, Texas 78711-2548 (512) 475-4196 Respectfully submitted.

CHRISTOPHER D. HILTON Chief, General Litigation Division

/s/Johnathan Stone

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Rosalinda Luna on behalf of Johnathan Stone Bar No. 24071779 rosalinda.luna@oag.texas.gov Envelope ID: 75636360 Filing Code Description: Petition Filing Description: Plaintiff's Original Petition Status as of 5/15/2023 1:55 PM CST

Associated Case Party: State of Texas

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