

# Class Action Alleges Fitness Influencers Were Weak on Disclosures

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In January, a Florida woman was scrolling through Instagram when she saw two fitness influencers that she follows wearing Gymshark clothing. Soon after, she purchased a pair of Gymshark Flex High Waisted Leggings in black. What the woman thought of the leggings when they arrived at her home 4-7 business days later, we may never know. What we do know is that she wasn't happy when she learned that the influencers may have been paid to promote the clothing.

This week, the woman filed a class action lawsuit against Gymshark alleging that the company has enlisted "an army of fitness influencers" to promote its products and instructed them to post content "without disclosing to consumers that such posts are paid advertisements." The complaint alleges that most of the soldiers in the influencer army didn't disclose their connection to the company, and those that did used small print or text that viewers couldn't see without clicking a link.

As with similar lawsuits, this complaint leans on the FTC's Endorsement Guides to argue that it's misleading for an influencer to promote a product without clearly disclosing her connection to the brand. (The complaint also points to [this NAD case](#) for the same principle.) The Florida woman alleges that she wouldn't have purchased the leggings if it weren't for the misleading posts and she seeks damages for herself and other people who purchased Gymshark products after seeing similar posts.

There are at least two lessons to learn here. First, if you are a consumer purchasing products based on an influencer's recommendation, you may want to err on the side of assuming that the influencer is being paid. Second, if you are a company using influencers to promote your products, make sure your influencers disclose their connection to you in a way that complies with the FTC's Endorsement Guides. If you don't, you may find yourself doing some heavy lifting in court.