

**CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION**

Carl Arcangel, individually and on behalf of)
all others similarly situated,)
)
Plaintiff,)
)
v.)
)
Yardi Systems, Inc.,)
)
Defendant.)
_____)

2023CH09957
Civil Action No.
Jury Trial Demanded

CLASS ACTION COMPLAINT

Plaintiff Carl Arcangel (“Plaintiff”), individually and on behalf of all others similarly situated, by and through his attorneys, and for his complaint against Defendant Yardi Systems, Inc. (“Defendant”), states as follows:

Introduction

1. Plaintiff brings this Class Action Complaint against Defendant to stop Defendant’s practice of assessing an unauthorized surcharge on credit card transactions associated with its online users’ payment of rent. In particular, when Plaintiff and members of the Class and Subclass (defined below) undertake to pay their rent electronically through Defendant’s payment system, they are advised that they will be charged a 3.5% fee for any rent payment made by a credit card. This charge contravenes the credit card rules Defendant is obligated to follow, constitutes an unfair and deceptive practice in violation of Illinois law, and has unjustly enriched Defendant in the amount of several millions of dollars.

Parties

2. Plaintiff is an individual who resides in Cook County, Illinois, and is a rental tenant in a property that utilizes Defendant’s online payment system for tenants’ payment of rent.

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3. Defendant is a California corporation, with its principal place of business in Santa Monica, California, that operates an online business that connects tenants with property managers, and is retained by landlords to allow tenants to pay rent through Defendant's online system.

Jurisdiction and Venue

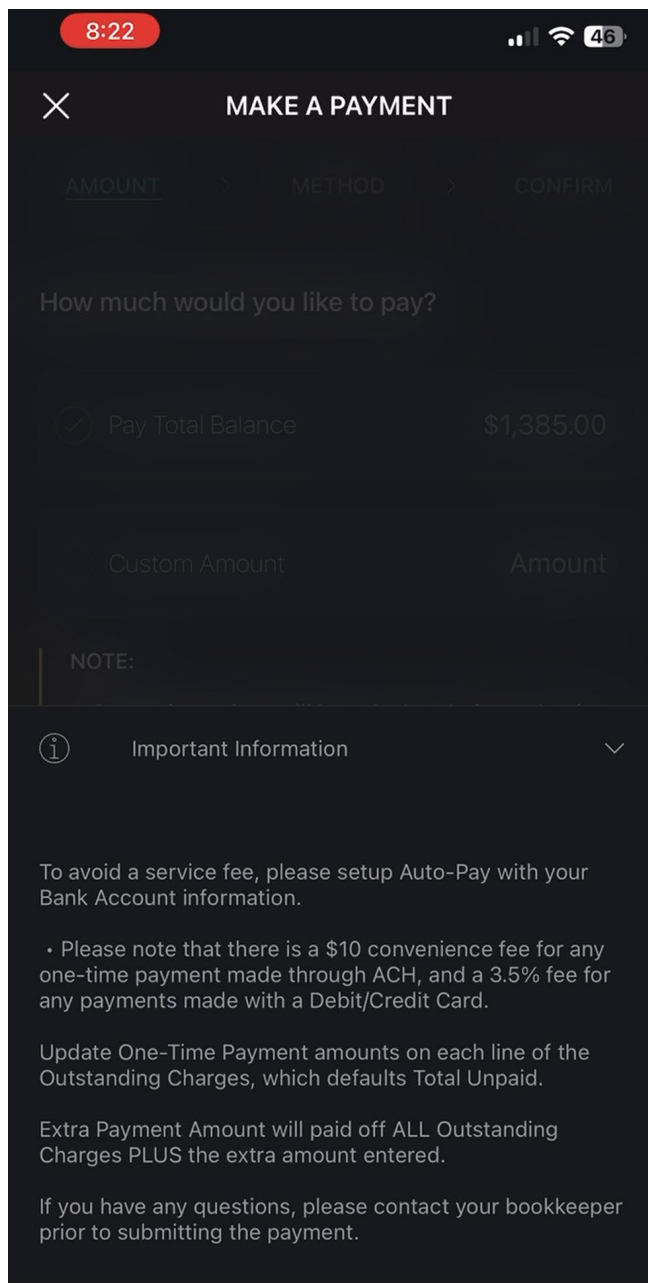
4. This Court has personal jurisdiction over Defendant pursuant to 735 ILCS 5/2-209 because Defendant is registered to do business within this State, is doing business within the State, transacts business within this State, and committed tortious acts within this State.

5. Venue is proper in Cook County under 735 ILCS 5/2-101, because Defendant conducts business in Cook County and because the transactions out of which this cause of action arises occurred in Cook County, as Plaintiff was charged the deceptive and unauthorized fees at issue in Cook County.

Factual Background

6. Defendant operates an online system that connects potential and current tenants with property managers across the country, which is located at <https://www.rentcafe.com/> ("Rentcafe"). With respect to current tenants, Defendant, through Rentcafe, provides an online payment platform that permits tenants to pay their rent to property managers online via credit card, debit card, or ACH.

7. Every time a tenant undertakes to make a rental payment online, he or she is presented with a screen indicating that a payment made by credit card will be subject to a 3.5% transaction fee, such as the below:



8. In order to accept payment via credit card, merchants—like Defendant—enter into standard form merchant agreements with credit card issuers, such as Visa. These agreements require that the merchants comply with the credit card issuers’ rules.

9. On information and belief, Defendant entered into a merchant agreement with Visa, which required Defendant to comply with Visa’s Core Rules and Visa Product and Service

Rules (“Visa Rules”), located at <https://usa.visa.com/content/dam/VCOM/download/about-visa/visa-rules-public.pdf>.

10. The agreements between merchants and credit card companies—such as the agreement between Defendant and Visa—limit the surcharges that a merchant can impose on its customers’ credit card transactions. A credit card surcharge is an additional fee that a merchant adds to a customer’s bill when he or she uses a credit card for payment for a product or service and is intended to cover the fees the merchant incurs in connection with the transaction.

11. Under Visa and Mastercard rules, surcharges are limited to the cost to the merchant for card acceptance, with a maximum allowable surcharge of 4% of the total credit card transaction (in the case of Mastercard) and 3% in the case of Visa. *See* <https://usa.visa.com/content/dam/VCOM/global/support-legal/documents/merchant-surcharging-ga-for-web.pdf>; https://www.mastercard.us/content/dam/public/mastercardcom/na/us/en/documents/Merchant_Surcharge_FAQ.pdf. On information and belief, the average fee a merchant incurs in connection with these transactions is less than 3.5%.

12. As a part of its ordinary and routine business practice, Defendant knowingly charges consumers a 3.5% surcharge whenever consumers pay their rent using a credit card.

13. Defendant’s surcharge for credit card transactions violates Defendant’s merchant agreement with Visa and Visa Rules.

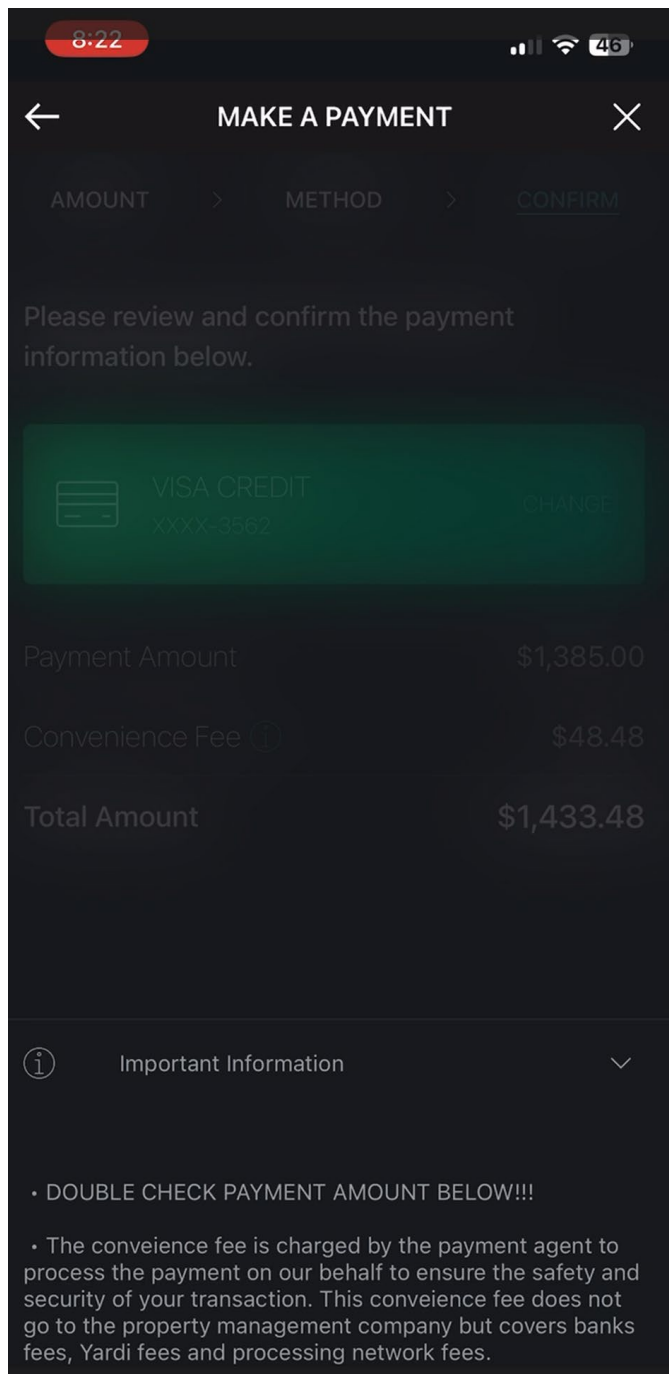
Plaintiff was Charged a Prohibited Credit Card Surcharge by Defendant

14. Plaintiff is a tenant that utilizes Defendant’s Rentcafe portal to pay his rent.

15. On or around July 3, 2023, Plaintiff paid his rent to his property management company via Rentcafe using a Visa credit card.

16. As part of Plaintiff’s payment transaction, Defendant imposed a 3.5% surcharge that appeared separately on Plaintiff’s rental ledger as a “Convenience Fee.”

17. The Rentcafe portal makes clear that this fee is charged by Yardi, rather than the property management company, as demonstrated below:



18. When Plaintiff made this payment, using the online portal described above, Defendant represented to Plaintiff that it was authorized to charge a 3.5% surcharge for credit card transactions. Defendant omitted that the surcharge could not be charged without violating the Visa Rules. Defendant made these misrepresentations and omissions with the intent that they would be relied upon by tenants such as Plaintiff.

19. Plaintiff relied on Defendant's material representations and omissions when he made a payment via his Visa credit card through Defendant's payment portal and paid Defendant a fee of 3.5%.

Class Action Allegations

20. Plaintiff brings this action on behalf of himself and all others similarly situated under 735 ILCS 5/2-801.

21. Subject to confirmation, clarification and/or modification based on discovery to be conducted in this action, the class and subclass that Plaintiff seeks to represent are defined as follows:

Nationwide Class: All persons in the United States, within the applicable statute of limitations, who made a rental payment via the Rentcafe platform with a Visa credit card and paid a 3.5% surcharge to Defendant (the "Class").

Illinois Subclass: All persons in Illinois, within the applicable statute of limitations, who made a rental payment via the Rentcafe platform with a Visa credit card and paid a 3.5% surcharge to Defendant (the "Subclass").

22. Excluded from the Class and Subclass are: (1) Defendant, any entity in which Defendant has a controlling interest, and its legal representatives, officers, directors, employees, assigns and successors; (2) the Judge to whom this case is assigned and any member of the Judge's staff or immediate family; and (3) Class Counsel.

23. The precise number of Class and Subclass members are unknown to Plaintiff, but likely include thousands of individuals. The true number of Class and Subclass members is known by Defendant, and potential Class and Subclass members may be identified and notified of the pendency of this action by first class mail, electronic mail, and/or published notice.

24. Common questions of law and fact exist as to all Class and Subclass members, and will predominate over questions affecting only individual members, including but not limited to the following:

- a) whether Defendant violated the Illinois Consumer Fraud and Deceptive Business Practices Act by charging unauthorized credit card surcharges;
- b) whether Defendant unjustly enriched itself with unauthorized surcharges;
- c) whether Plaintiff and Class and Subclass members suffered damages; and
- d) whether Plaintiff and Class and Subclass members are entitled to equitable relief.

25. Plaintiff will fairly and adequately represent and protect the interests of the Class and Subclass members as required by 735 ILCS 5/2-801(3). Plaintiff is an adequate representative because his interests do not conflict with the interests of the Class and Subclass members. Further, Plaintiff has retained counsel competent and experienced in class action litigation, and Plaintiff intends to prosecute this action vigorously. Therefore, the interests of the Class and Subclass members will be fairly and adequately protected.

26. A class action is an appropriate method for the fair and efficient adjudication of the controversy under 735 ILCS 5/2-801(4). In this regard, the Class and Subclass members' interest in individually controlling the prosecution of separate actions is low given the magnitude, burden, and expense of individual prosecutions against large corporations such as Defendant. Further, neither Plaintiff nor his counsel are aware of any ongoing litigation concerning this controversy already begun by any of the Class or Subclass members. It is

desirable to concentrate this litigation in this forum to avoid burdening the courts with individual lawsuits. Individualized litigation presents a potential for inconsistent or contradictory results and also increases the delay and expense to all parties and the court system presented by the legal and factual issues of this case. By contrast, the class action procedure here will have no management difficulties. Defendant's records will easily identify the Class and Subclass members. The surcharge is common to all Class members; therefore, the same common documents and testimony will be used to prove Plaintiff's claims as well as the claims of the Class and Subclass members. Finally, proceeding as a class action provides the benefits of single adjudication, economies of scale, and comprehensive supervision by a single court.

COUNT I

Violation of the Illinois Consumer Fraud and Deceptive Business Practices Act (815 ILCS 505/2)

27. Plaintiff hereby incorporates paragraphs 1 through 26 above by reference as if fully set forth herein.

28. At all times relevant to this complaint, the Illinois Consumer Fraud and Deceptive Business Practices Act ("ICFA"), 815 ILCS 505/1, *et seq.* was in effect.

29. ICFA, among other things, prohibits unfair or deceptive acts or practices, including, but not limited to, "misrepresentation or the concealment, suppression or omission of any material fact, with intent that others rely upon the concealment, suppression or omission of such material fact," or "the use or employment of any practice described in Section 2 of the 'Uniform Deceptive Trade Practices Act' [815 ILCS 510/2]" (815 ILCS 505/2), such as "conduct which . . . creates a likelihood of confusion or misunderstanding." 815 ILCS 510/2(12).

30. By operating and offering a payment processing service to residents of Illinois, Defendant engaged in trade or commerce in Illinois.

31. As set forth above, Defendant made material misrepresentations to tenants on its Rentcafe payment portal by presenting its 3.5% surcharge as if it was authorized under Defendant's merchant agreement with Visa, and omitting that such a surcharge violated the Visa Rules. A reasonable consumer, such as Plaintiff, would be misled to believe that Defendant's surcharge was a lawful fee that could be charged to credit card holders such as himself. Such material misrepresentations and omissions constitute unfair and/or deceptive acts or practices prohibited by 815 ILCS 505/2.

32. Defendant intended for Plaintiff and Class and Subclass members to rely on its representations and omissions regarding the surcharge when choosing to complete rental payment transactions with a credit card, and Plaintiff and Class and Subclass members relied on such representations and omissions and believed that Defendant was authorized to charge a 3.5% credit card surcharge.

33. In fact, Plaintiff did rely on these misrepresentations and omissions as he believed that Defendant's credit card surcharges satisfied the requirements for such fees under the Visa Rules. If Plaintiff had been made aware that the surcharge violated Visa Rules for credit card transactions, he would not have paid the fee, or objected to Defendant's management, or contacted his credit card provider to complain. However, he did not complain about this fee because he was deceived by Defendant's false representations and omissions.

34. Defendant's business acts or practices of charging an unauthorized credit card surcharge are deceptive as set forth above, and are unfair in that they offend established public policy, are so oppressive that consumers have little choice but to submit, and are substantially injurious to consumers, as consumers are paying a fee that serves as a profit center for Defendant while being explicitly prohibited by Defendant's agreement with Visa.

35. As a direct and proximate result of the unfair and deceptive acts and practices alleged herein, Plaintiff and Class and Subclass members have been damaged in that they have paid surcharges in excess of what Defendant was authorized to charge in connection with credit card transactions.

36. Accordingly, based on Defendant's conduct, Plaintiff and Class and Subclass members are entitled to actual damages, punitive damages, injunctive relief, and attorneys' fees pursuant to 815 ILCS 505/10a.

WHEREFORE, Plaintiff Carl Arcangel, individually and on behalf of all others similarly situated, requests relief as follows:

- a. An order certifying this case as a class action under 735 ILCS 5/2-801;
- b. Appointment of undersigned counsel as class counsel;
- c. Actual damages, punitive damages, and other amounts recoverable pursuant to 815 ILCS 505/10(a);
- d. An order enjoining Defendant from continuing its unfair and deceptive acts and practices;
- e. Attorneys' fees;
- f. Costs incurred;
- g. Pre-judgment and post-judgment interest at the maximum rate allowed by law; and
- h. Any and all such other legal and equitable relief as the Court deems proper.

COUNT II
Unjust Enrichment

37. Plaintiff hereby incorporates paragraphs 1 through 26 above by reference as if fully set forth herein.

38. By virtue of having charged Plaintiff and Class and Subclass members a credit card surcharge that Defendant was not authorized to charge, Defendant unjustly retained a benefit to the detriment of Plaintiff and members of the Class and Subclass. Specifically, Defendant retained a 3.5% fee for each credit card transaction conducted through the Rentcafe website, although such fees are prohibited by Visa as a condition of accepting such payments.

39. Defendant's retention of the aforementioned benefit violates fundamental principles of justice, equity, and good conscience.

40. As a direct and proximate result of Defendant charging an unauthorized credit card surcharge, Plaintiff and Class and Subclass members have been damaged in that they have paid surcharges in excess of what Defendant was authorized to charge in connection with credit card transactions.

41. Accordingly, based on Defendant's conduct, Plaintiff and Class and Subclass members are entitled to damages in an amount to be determined at trial.

WHEREFORE, Plaintiff Carl Arcangel, individually and on behalf of all others similarly situated, requests relief as follows:

- a. An order certifying this case as a class action under 735 ILCS 5/2-801;
- b. Appointment of undersigned counsel as class counsel;
- c. Compensatory damages in an amount to be proven at trial;
- d. Pre-judgment and post-judgment interest at the maximum rate allowed by law;
and
- e. Any and all such other legal and equitable relief as the Court deems proper.

JURY DEMAND

Plaintiff hereby demands a trial by jury on all issues so triable.

Dated: December 11, 2023

Respectfully Submitted,

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