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Superior Court of California,
County of San Diego
05/24/2024 at 11:48:18 AM
Clerk of the Superior Court
By Amanda Gidron, Deputy Clerk

Attorneys for Plaintiff Mohammad Karimi, on behalf
of himself and a class of all others similarly situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN DIEGO

MOHAMMAD KARIMI, on behalf
of himself and a class of all others similarly
situated,

Plaintiff,

v.

REPUBLIC SERVICES, INC., a Delaware
Corporation; and DOES 1 through 10,
inclusive,

Defendants.

Case No. 37-2024-00024690-CU-BT-CTL

CLASS ACTION COMPLAINT

1. VIOLATION OF THE UNFAIR
COMPETITION LAW, CALIFORNIA
BUSINESS & PROFESSIONS CODE §§
17200, ET SEQ.
2. UNJUST ENRICHMENT
3. CONVERSION

DEMAND FOR JURY TRIAL

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INTRODUCTION

Plaintiff Mohammad Karimi, (“Plaintiff”), brings this action on behalf of himself and all others similarly situated against Defendant REPUBLIC SERVICES, INC. (“REPUBLIC”). Plaintiff makes the following allegations pursuant to the investigation of his counsel and based upon information and belief, except as to the allegations specifically pertaining to himself, which are based on personal knowledge.

FACTS COMMON TO ALL CAUSES OF ACTION

1. Defendant REPUBLIC is contractually obligated to provide waste, organic waste and recycling services for the County and the City of San Diego, specifically, the weekly removal of waste, organic and recycling.

2. Plaintiff entered into an agreement with REPUBLIC for weekly waste and recycling removal. Plaintiff agreed to pay a recurring fee to REPUBLIC for the removal of waste and recycling from Plaintiff’s business dwelling, San Diego Bike Shop, located at 619 C Street, San Diego, California 92101.

3. On or about February 25, 2023, REPUBLIC began charging a monthly fee for organic waste processing at Plaintiff’s business, San Diego Bike Shop. San Diego Bike Shop does not generate any organic waste, and no organic waste was picked up and/or processed by Defendant for Plaintiff’s business.

4. Plaintiff informed REPUBLIC on multiple occasions that his business, San Diego Bike Shop, does not produce any organic waste and this service was not being provided by REPUBLIC to San Diego Bike Shop, and requested that REPUBLIC stop charging the monthly fee for organic waste processing.

5. Despite the lack of services by REPUBLIC for organic waste processing at San Diego Bike Shop, Plaintiff was billed monthly for organic waste processing at the rate of approximately \$114.01 per month.

6. The fees charged to Plaintiff by REPUBLIC for organic waste processing despite the fact that no services were provided for organic waste processing. Plaintiff informed Defendant of the fact that it was not providing organic waste processing services to San Diego Bike Shop.

1 7. As of the time of this filing, Plaintiff has not been refunded or credited any amount
2 by REPUBLIC, despite the fact that no services were provided for organic waste processing.

3 **PARTIES**

4 8. Plaintiff Mohammad Karimi is a resident of San Diego County, California. At all
5 times relevant, Plaintiff was a paying customer of Defendant REPUBLIC.

6 9. Defendant REPUBLIC is now, and at all times mentioned in this Complaint, a
7 corporation domiciled in the State of Delaware, with its principal place of business located at
8 18500 North Allied Way, Phoenix AZ 85054.

9 10. Plaintiff is currently unaware of the true names and capacities of the other
10 defendants sued in this action and therefore have named them by the fictitious names DOES 1
11 through 50, inclusive. Plaintiff will amend this complaint to allege the true names and capacities
12 of such fictitiously named defendants when they are ascertained.

13 11. Plaintiff is informed and believe and, on that basis, alleges that each defendant
14 sued in this action, including each defendant sued by the fictitious names DOES 1 through 50,
15 inclusive, is responsible in some manner for the occurrences, controversies and damages alleged
16 below. Defendant REPUBLIC and DOES 1 through 50, inclusive, are hereinafter collectively
17 referred to as "Defendants".

18 **JURISDICTION AND VENUE**

19 12. Venue as to each Defendant is proper in this judicial district pursuant to Code of
20 Civil Procedure section 395(a). Defendants conduct business in San Diego County, and each
21 Defendant is within the jurisdiction of this Court for service of process purposes. Defendants
22 maintain offices, transact business, and/or have an agent in San Diego County and Defendants
23 are otherwise within this Court's jurisdiction for purposes of service of process. The unlawful
24 acts alleged herein arose in San Diego County and have a direct effect on Plaintiff and other
25 similarly-situated individuals within the State of California and within San Diego County.
26 Plaintiff and the members of the Class contracted with Defendants in California and do business
27 in California.

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1 13. This Court has personal jurisdiction over Defendant REPUBLIC because they
2 conduct substantial business within California such that Defendants have significant, continuous,
3 and pervasive contacts with the State of California. Defendants have sufficient minimum contacts
4 with this state, and otherwise purposely avail themselves of the markets in this state through the
5 promotion, sale, and marketing of their services in this state, to render the exercise of jurisdiction
6 by this Court permissible under traditional notions of fair play and substantial justice.

7 14. The California Superior Court also has jurisdiction in this matter because
8 individual members of the classes are under the seventy-five thousand dollar (\$75,000.00)
9 jurisdictional threshold for Federal Court. There is no federal question at issue, as the issues are
10 based solely on California law, including the Code of Civil Procedure, and Business and
11 Professions Code.

12 **CLASS ACTION ALLEGATIONS**

13 15. Plaintiff brings this action on behalf of himself and all others similarly situated as
14 a class action pursuant to Code of Civil Procedure section 382. The members of the Class and
15 Subclasses are defined as follows:

16 **Class**

17 All businesses in the City of San Diego, excluding businesses ineligible for
18 a de minimis waiver¹, charged by Defendants for organic waste processing
19 but not provided organic waste processing services at any time from and
20 after January 1, 2023 through the date of trial in this action.

21 16. Plaintiff reserves the right under Rule 3.765(b), California Rules of Court, and
22 other applicable law to amend or modify the class definition with greater specificity or further
23 division into subclasses or limitation to particular issues. Plaintiff is a member of the proposed
24 Class.

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26 _____
27 ¹ The following business are ineligible for a 20-Gallon/10-Gallon or Less Waiver: (1) All business
28 that require a permit from the San Diego County Department of Environmental Health and
Quality – Food and Housing Division; (2) businesses that make food; (3) businesses that serve
food; other businesses (plant businesses and events that make and/or sell food); and multi-family
properties. See <https://www.sandiego.gov/environmental-services/recycling/ro>

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1 17. This action has been brought and may be maintained as a class action pursuant to
2 Code of Civil Procedure section 382 because there is a well-defined community of interest in the
3 litigation and the proposed Class is easily ascertainable through records of Defendants.

4 18. Numerosity. Defendants have thousands of customers that have paid or were
5 charged fees for services that were never provided. Accordingly, members of the Class are so
6 numerous that their individual joinder herein is impracticable. The precise number of Class
7 members and their identities are unknown to Plaintiff at this time but may be determined through
8 discovery. Class members may be notified of the pendency of this action by mail and/or
9 publication through the distribution records of Defendants.

10 19. Commonality. Common questions of law and fact exist as to all Class members
11 and predominate over questions affecting only individual Class members. Common legal and
12 factual questions include, but are not limited to, whether Defendants have breached its contract
13 with its customers and whether their actions are fraudulent and unlawful.

14 20. Typicality. the claims of the named Plaintiff are typical of the claims of the Class
15 in that the named Plaintiff was charged fees despite no services being provided by Defendants
16 and suffered losses as a result. Defendants have no defenses unique to the Plaintiff.

17 21. Adequacy. Plaintiff will adequately and fairly protect the interests of the members
18 of the Class. Plaintiff has no interest adverse to the interests of absent Class Members. Plaintiff
19 is represented by attorneys who have substantial class action experience in consumer and wage
20 and hour class action law.

21 22. Superiority. The class mechanism is superior to other available means for the fair
22 and efficient adjudication of the claims of the Class members. Each individual Class member may
23 lack the resources to undergo the burden and expense of individual prosecution of the complex
24 and extensive litigation necessary to establish Defendants' liability. Individualized litigation
25 increases the delay and expense to all parties and multiplies the burden on the judicial system
26 presented by the complex legal and factual issues of this case. Individualized litigation also
27 presents a potential for inconsistent or contradictory judgments. In contrast, the class action
28 device presents far fewer management difficulties and provides the benefits of single

1 adjudication, economy of scale, and comprehensive supervision by a single court on the issue of
2 Defendants’ liability. Class treatment of the liability issues will ensure that all claims and
3 claimants are before this Court for consistent adjudication of the liability issues.

4 **CAUSES OF ACTION**

5 **FIRST CAUSE OF ACTION**
6 **Violation of the Unfair Competition Law**
7 **Bus. & Prof. Code §§ 17200, *et seq.***
8 **(By Plaintiff Against All Defendants)**

9 23. Plaintiff realleges and incorporates by reference the allegations contained in the
10 paragraphs above as if fully set forth here.

11 24. Plaintiff brings this claim individually and on behalf of the members of the
12 proposed Class against Defendants.

13 25. Defendants are subject to California’s Unfair Competition Law (“UCL”), Cal.
14 Bus. & Prof. Code §§ 17200, *et seq.* The UCL provides, in pertinent part: “Unfair competition
15 shall mean and include unlawful, unfair or fraudulent business practices and unfair, deceptive,
16 untrue or misleading advertising”

17 26. Defendants accepted payment and continued to bill Plaintiff and on information
18 and belief the Class for services it knew or should have known that it was not providing,
19 specifically organic waste processing.

20 27. Defendants’ business practices, described herein, violated the “unfair” prong of
21 the UCL in that their conduct is substantially injurious to consumers, offends public policy, and
22 is immoral, unethical, oppressive, and unscrupulous, as the gravity of the conduct outweighs any
23 alleged benefits.

24 28. Plaintiff and the Class acted reasonably when they entered into agreements with
25 Defendants based on the belief that they would only be charged fees when Defendants were
26 providing services.

27 29. Plaintiff and the Class lost money or property as a result of Defendants’ UCL
28 violations because (a) they would not have paid for Defendants’ services absent Defendants’
representations and omission of a warning that it would charge customers’ credit cards, debit

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1 cards and bank accounts for services that it was not providing; (b) they would not have paid for
2 Defendants' services on the same terms absent Defendants' representations and omissions; (c)
3 they paid a price premium for Defendants' services based on Defendants' misrepresentations and
4 omissions; and (d) Defendants' did not provide the organic waste processing services for which
5 it was charging.

6 **SECOND CAUSE OF ACTION**
7 **Unjust Enrichment**
8 **(By Plaintiff Against All Defendants)**

9 30. Plaintiff realleges and incorporates by reference the allegations contained in the
10 paragraphs above as if fully set forth here.

11 31. Plaintiff brings this claim individually and on behalf of the members of the
12 proposed Class against Defendants.

13 32. Plaintiff and members of the Class conferred benefits on Defendants by paying,
14 and being charged, fees while no organic waste processing services were provided by Defendants.
15 Defendants have knowledge of such benefits and that Plaintiff and members of the Class were
16 not businesses presumed to generate organic waste.

17 33. Defendants have been unjustly enriched in retaining the revenues derived from
18 fees paid by Plaintiff and the Class. Retention of those moneys under these circumstances is unjust
19 and inequitable because Defendants charged for services it did not provide. These
20 misrepresentations and charges caused injuries to Plaintiff the Class because they would not have
21 paid Defendants' fees had the true facts been known.

22 34. Defendants received, retained or appropriated these benefits under such
23 circumstances that it would be inequitable and unjust to permit Defendants to retain such monies
24 at the expense of Plaintiff and the Class. Defendants, as a result of such conduct, became indebted
25 to Plaintiff and the Class for the sums paid to Defendants as set forth in detail above, with interest
26 thereon. No such sums have been paid to Plaintiff and the Class.

27 35. In fairness, all such monies, including interest Defendants have earned on such
28 monies while in wrongful possession thereof, should be disgorged by Defendants and paid to
members of the Class under principles of unjust enrichment.

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1 36. As a direct and proximate result of Defendants' conduct resulting in their unjust
2 enrichment, Plaintiff and the Class suffered injury, and therefore seek an order directing
3 Defendants to return the amount each person was improperly induced to pay Defendants, plus
4 interest thereon.

5 37. Because Defendants' retention of the non-gratuitous benefits conferred on it by
6 Plaintiff and the Class is unjust and inequitable, Defendants must pay restitution to Plaintiff and
7 the Class for their unjust enrichment, as ordered by the Court.

8 **THIRD CAUSE OF ACTION**
9 **Conversion**
10 **(By Plaintiff Against All Defendants)**

11 38. Plaintiff realleges and incorporates by reference the allegations contained in the
12 paragraphs above as if fully set forth here.

13 39. Plaintiff brings this claim individually and on behalf of the members of the
14 proposed Class against Defendants.

15 40. Plaintiff and other members of the Class were in possession of monies for fees,
16 which they paid to Defendants for certain services for organic waste processing, which
17 Defendants failed to provide even though members of the Class were not presumed to generate
18 organic waste and Defendant made no effort to confirm whether Plaintiff and Class members
19 generated organic waste.

20 41. Without Plaintiff's or the Class's consent, Defendants intentionally interfered with
21 the property of Plaintiff and the Class when it retained the monies for fees despite failing to
22 provide organic waste processing for which Plaintiff and the Class paid.

23 42. Defendants' unjust retention and refusal to return the monies for fees without
24 providing the services covered by the fees was a substantial factor in causing Plaintiffs and the
25 Class harm and loss of the monies and benefits of their agreement with Defendants.

26 43. Plaintiff and the Class are entitled to the return of the prorated amounts of the
27 monies paid to Defendants during the relevant time period.

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PRAYER FOR RELIEF

WHEREFORE, Plaintiff, individually and on behalf of all others similarly situated, seeks judgment against Defendants, as follows:

1. For an order certifying the Class under Section 382 of the Code of Civil Procedure and naming Plaintiff as representative of the Class and Plaintiff's attorneys as Class Counsel to represent the Class members;

2. For an order declaring that Defendants' conduct violates the statutes and laws referenced herein;

3. For an order finding in favor of Plaintiff, and the Class, on all counts asserted herein;

4. For compensatory damages in amounts to be determined by the Court and/or jury;

5. For prejudgment interest on all amounts awarded;

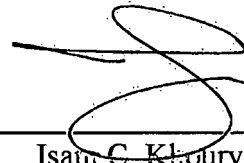
6. For an order of restitution and all other forms of equitable monetary relief;

7. For such other and further relief as the Court may deems just and equitable; and

8. For an order awarding Plaintiff and the Class their reasonable attorneys' fees and expenses and costs of suit.

Respectfully submitted,

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By: _____

Isam C. Khoury
Michael D. Singer
Marta Manus

Attorneys for Plaintiff Mohammad Karimi,
on behalf of himself and all others similarly
situated

Dated: May 24, 2024

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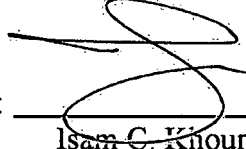
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DEMAND FOR JURY TRIAL

Plaintiff demands a jury trial of all claims triable as of right by jury.

Respectfully submitted,

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By: _____

Isam C. Khoury
Michael D. Singer
Marta Manus

Dated: May 24, 2024

Attorneys for Plaintiff Mohammad Karimi,
on behalf of himself and all others similarly
situated

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