

SERENA MOSLEY-DAY

[smosleyday@ftc.gov](mailto:smosleyday@ftc.gov)

REID TEPFER

[rtepfer@ftc.gov](mailto:rtepfer@ftc.gov)

EDWARD HYNES

[ehynes@ftc.gov](mailto:ehynes@ftc.gov)

FEDERAL TRADE COMMISSION

1999 Bryan Street, Suite 2150

Dallas, TX 75201

Telephone: (214) 979-9390 (Mosley-Day)

Telephone: (214) 979-9395 (Tepfer)

Telephone: (214) 979-9381 (Hynes)

Local Counsel:

DAVID L. HANKIN (CA Bar No. 319825)

[dhankin@ftc.gov](mailto:dhankin@ftc.gov)

Federal Trade Commission

10990 Wilshire Boulevard, Suite 400

Los Angeles, CA 90024

Telephone: (310) 824-4317

*Attorneys for Plaintiff Federal Trade Commission*

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

FITNESS INTERNATIONAL, LLC,  
a limited liability company; and

FITNESS & SPORTS CLUBS, LLC,  
a limited liability company.

Defendants.

Case No. 8:25-cv-1841

**AMENDED COMPLAINT FOR  
PERMANENT INJUNCTION,  
MONETARY JUDGMENT,  
AND OTHER RELIEF**

1 Plaintiff, the Federal Trade Commission (“FTC” or “Commission”), for its  
2 Amended Complaint alleges:

3 1. The FTC brings this action for Defendants’ violations of Section 5(a)  
4 of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. § 45(a), and Section  
5 4 of the Restore Online Shoppers’ Confidence Act (“ROSCA”), 15 U.S.C. § 8403.  
6 For these violations, the FTC seeks relief, including a permanent injunction,  
7 monetary relief, and other relief, pursuant to Sections 13(b) and 19 of the FTC Act,  
8 15 U.S.C. §§ 53(b), 57b, and ROSCA, 15 U.S.C. § 8403.

9 **SUMMARY OF THE CASE**

10 2. Defendants Fitness International, LLC and Fitness & Sports Clubs,  
11 LLC (collectively “Defendants”), operate nationwide gym chains that use difficult  
12 cancellation procedures to prevent consumers from cancelling their memberships  
13 and other recurring charges. As a result, Defendants have illegally charged  
14 hundreds of millions of dollars in unwanted recurring fees.

15 3. Defendants enroll consumers in recurring monthly memberships with  
16 negative option features either on Defendants’ websites or at Defendants’ gyms.  
17 But to cancel these memberships, Defendants have required consumers to use one  
18 of two unfair and unlawful cancellation processes that are neither simple nor fair,  
19 and in fact are difficult, time-consuming, and inadequately disclosed to consumers.

20 4. One of Defendants’ restrictive cancellation mechanisms directs  
21 consumers to submit a difficult-to-access form in person, at the gym. To cancel in  
22 person, Defendants have instructed consumers to first access their account on the  
23 gym’s website, generate the cancellation form, and print it. But to access and print  
24 this form, Defendants have required consumers to navigate to their website, which  
25 consumers rarely if ever use, and complete a cumbersome log in process which  
26 requires credentials that many consumers either do not have or do not remember.

27 5. Defendants’ instructions to consumers have provided that consumers  
28 must then take their printed forms to the gym during limited hours, search out and

1 find the specific manager at the location who is authorized to process the forms,  
2 and wait for that manager to process the consumer's cancellation. Consumers who  
3 have been unable to reach this manager could not cancel their membership through  
4 any of Defendants' other employees. Instead, they have been required to return  
5 another time and hope that the specific manager is available.

6 6. Another way Defendants have accepted cancellation is by mail.  
7 Defendants have instructed consumers to complete and print the same cancellation  
8 form. But to obtain the form consumers must access and log in to Defendants'  
9 website, which poses the obstacles alleged above, and then mail it at their expense.  
10 However, Defendants instruct consumers to use certified mail or registered mail,  
11 either of which requires a trip to the post office and additional costs.

12 7. Each of these cancellation methods is opaque, complicated, and  
13 demanding—unfair and far from simple.

14 8. Additionally, when consumers sign up for memberships on  
15 Defendants' websites, Defendants do not clearly and conspicuously disclose how  
16 to cancel before collecting billing information.

17 9. In selling their memberships, both online and at the gyms, Defendants  
18 also frequently sign consumers up for additional services with recurring charges,  
19 such as towel service or childcare, using the same membership contract. However,  
20 Defendants impose different and inconsistent cancellation requirements for these  
21 additional services. Further, Defendants have failed to disclose that the additional  
22 programs and services are separate negative option programs, distinct from their  
23 base memberships, which consumers could cancel independently, often through  
24 less difficult means. As a result, Defendants have misrepresented that these  
25 additional negative option programs and features, along with their base  
26 memberships, are part of a single membership.  
27  
28

1           10. Many consumers who comply with Defendants’ restrictive  
2 cancellation procedures nevertheless find that they continue to be billed for their  
3 memberships.

4           11. Defendants have received tens of thousands of reports from  
5 consumers complaining that their cancellation practices are difficult. Consumers  
6 also have filed thousands of reports complaining about Defendants’ cancellation  
7 practices with consumer groups and state and federal authorities. Nevertheless, for  
8 years, Defendants have consistently failed to provide a simple cancellation method.

9                           **JURISDICTION AND VENUE**

10           12. This Court has subject matter jurisdiction pursuant to 28 U.S.C.  
11 §§ 1331, 1337(a), and 1345.

12           13. Venue is proper in this District under 28 U.S.C. § 1391(b)(1), (b)(2),  
13 (c)(2), and (d), and 15 U.S.C. § 53(b).

14                           **PLAINTIFF**

15           14. The FTC is an agency of the United States Government created by the  
16 FTC Act, which authorizes the FTC to commence this district court civil action by  
17 its own attorneys. 15 U.S.C. §§ 41–58. The FTC enforces Section 5(a) of the FTC  
18 Act, 15 U.S.C. § 45(a), which prohibits unfair or deceptive acts or practices in or  
19 affecting commerce. The FTC also enforces ROSCA, 15 U.S.C. §§ 8401-05,  
20 which, *inter alia*, prohibits businesses from charging or attempting to charge  
21 consumers for any goods or services in a transaction effected on the Internet  
22 through a negative option feature without meeting certain requirements to protect  
23 consumers. A negative option is an offer in which the seller treats a consumer’s  
24 silence—*i.e.*, their failure to reject an offer or cancel an agreement—as consent to  
25 be charged for goods or services. 16 C.F.R. § 310.2(w).

26                           **DEFENDANTS**

27           15. Defendant Fitness International, LLC (“FI”), also doing business as  
28 LA Fitness, is a California limited liability company with its principal place of

1 business at 3161 Michelson Drive, Suite 600, Irvine, CA 92612-4406. FI transacts  
2 or has transacted business in this District and throughout the United States. At all  
3 times relevant to this Amended Complaint, acting alone or in concert with others,  
4 FI has advertised, marketed, distributed, or sold gym memberships, personal  
5 training memberships, and associated services and amenities to consumers  
6 throughout the United States.

7 16. Defendant Fitness & Sports Clubs, LLC (“F&SC”), also doing  
8 business as LA Fitness, is a Delaware limited liability company, with its principal  
9 place of business at 3161 Michelson Drive, Suite 600, Irvine, CA 92612-4406.  
10 F&SC is a wholly owned subsidiary of FI. F&SC transacts or has transacted  
11 business in this District and throughout the United States. At all times relevant to  
12 this Amended Complaint, acting alone or in concert with others, F&SC has  
13 advertised, marketed, distributed, or sold gym memberships, personal training  
14 memberships, and associated services and amenities to consumers throughout the  
15 United States.

### 16 COMMON ENTERPRISE

17 17. Defendants have operated as a common enterprise while engaging in  
18 the violations of law alleged below. Defendants have conducted the business  
19 practices described below through an interrelated network of companies that have  
20 common ownership, officers, managers, business functions, employees, office, and  
21 retail locations. Because these Defendants have operated as a common enterprise,  
22 each of them is liable for the acts and practices alleged below.

### 23 COMMERCE

24 18. At all times relevant to this Amended Complaint, Defendants have  
25 maintained a substantial course of trade in or affecting commerce, as “commerce” is  
26 defined in Section 4 of the FTC Act, 15 U.S.C. § 44.  
27  
28

## DEFENDANTS' BUSINESS ACTIVITIES

### Overview

19. Defendants operate gyms across the United States and in Canada under the brand names LA Fitness, Esporta Fitness, City Sports Club, and Club Studio. Defendants have more than 600 locations and over 3.7 million members in the United States.

20. Defendants offer health and fitness services to consumers through their brand locations. These services are offered through a base gym membership with optional add-on services. Under the base gym membership, the consumer initially pays the first and last month's dues, followed by recurring monthly dues, in addition to recurring annual fees. Gym membership monthly prices vary widely, including from \$30 to \$50 for an LA Fitness membership and as much as \$299 for other brands. The recurring annual fees range from approximately \$40 to \$60.

21. In addition, Defendants offer a variety of other optional services through negative option programs. For example, Defendants offer personal training memberships, which have fixed initial terms generally ranging from six to twelve months, followed by a recurring monthly membership until consumers cancel. Defendants also offer more than 50 add-on services and amenities on a negative option basis that range in price from \$5 monthly fees for towel service to \$249 monthly subscriptions for cryotherapy.

### Defendants' Website Membership Enrollment Practices

22. Defendants allow consumers to sign up for memberships and additional services on their gym brands' websites. Consumers can sign up for Defendants' gym memberships and additional services on one of Defendants' gym brands' websites through a four-page enrollment flow. The four-page flow is generally the same across gym brands and begins by clicking a prominent "Join Now" tab at the top of the gym brand landing page. There are no disclosures

1 concerning cancellation on the gym brand landing page.

2 23. After clicking “Join Now,” the consumer is taken to the first page of  
3 the flow, where they pick a club location by clicking a button labeled “Join This  
4 Club” or “Join Now,” and then are taken to the second page of the flow. There are  
5 no disclosures concerning cancellation on the first flow page.

6 24. On the second page of the flow, consumers are presented with options  
7 for membership plans, and they click a button labeled “Select” under the  
8 membership plan of their choice to proceed to the next page. There are no  
9 disclosures concerning cancellation on the second flow page.

10 25. On the third page, consumers enter their membership information,  
11 including name, cellphone number, email address, and mailing address. On this  
12 same page, they also select from the offered additional services and amenities.  
13 Finally, also on this third page, Defendants obtain consumers’ billing information  
14 including the credit card to be used for recurring billing.

15 26. In many instances, this third page has not clearly and conspicuously  
16 disclosed all material terms of the transaction, including: (a) how to cancel  
17 memberships or (b) that add-on services were separate negative option programs.

18 27. After Defendants obtain consumers’ billing information on the third  
19 page, consumers proceed to the fourth and final page by clicking a “Review and  
20 Confirm” button at the bottom of the page. Thus, Defendants have obtained  
21 consumers’ billing information prior to making any disclosures concerning  
22 cancellation.

23 28. On the fourth page, Defendants prompt consumers to confirm their  
24 membership selection. On this final page, for the first time, Defendants provide  
25 consumers with the opportunity to access the membership agreement.

26 29. On this fourth page, in many instances, Defendants have failed to  
27 clearly and conspicuously disclose material terms of the transaction, including how  
28 to cancel membership or add-on services. Specifically, Defendants have failed to



1 clearly and conspicuously disclose several onerous cancellation requirements,  
2 including material restrictions on in-person and mail cancellation, as alleged in  
3 detail in Paragraphs 49 through 80 within. Specifically, these omissions include  
4 the failure to clearly and conspicuously disclose information about the need to  
5 access and print a physical form (see Paragraphs 51-54 within), when Defendants  
6 will accept in-person cancellation (see Paragraph 55), who will accept in-person  
7 cancellation (see Paragraphs 57-60), how to submit a cancellation form by mail  
8 (see Paragraphs 51-55, 61), or that Defendants instruct consumers to use certified  
9 or registered mail when cancelling by mail (see Paragraph 62). Defendants further  
10 fail to clearly and conspicuously disclose that recurring add-on services are  
11 separate negative option programs that can be cancelled through alternative, less  
12 onerous means. This creates a misimpression that these add-on services are part of  
13 the same negative option program as consumers' gym memberships.

14 30. Clicking the "Confirm and Pay" or "Sign Agreement" finalizes the  
15 membership and completes enrollment. Although consumers have been able to  
16 elect to preview their entire membership agreement prior to processing the  
17 enrollment, in many instances, they could do so only by clicking an inconspicuous  
18 gray button.

19 **Defendants' Onsite Gym and Personal Training**

20 **Membership Enrollment Practices**

21 31. Defendants also allow consumers to sign up for memberships at their  
22 gym locations. Each location employs multiple sales staff for the purpose of  
23 enlisting new members.

24 32. Sales staff direct consumers through the signup process using the  
25 Defendants' Sales Management Tool app, which captures the sale information,  
26 including payment information. This process is completed at a sales desk where a  
27 sales staff member enters the consumer's information using a computer.

28 33. After the sales staff member enters the billing information, the app



1 populates the membership agreement. Consumers initial and sign the agreement  
2 using an electronic signature pad. Consumers are able to see the agreement only  
3 after the sales staff collects and saves their billing information.

4 34. Defendants do not disclose to consumers on the computer monitor  
5 how to cancel their memberships or add-on services.

6 35. Many consumers report that they were not provided with an email or  
7 printed version of the membership agreement. After consumers sign the  
8 agreement, Defendants' sales staff help them download Defendants' mobile app.  
9 Defendants provide consumers with a unique time-sensitive QR code, which  
10 automatically logs the consumer in to the Defendants' app. Through their mobile  
11 app, Defendants allow consumers to locate their nearest gym location, check in to a  
12 gym location upon arrival, book fitness classes and personal training sessions, and  
13 check in to fitness classes. Defendants encourage consumers to use and rely on  
14 their mobile app. Defendants do not similarly instruct staff to guide new members  
15 on how to use their website. Notwithstanding encouraging consumers to use the  
16 app and the many features available in app, consumers cannot cancel in app.

17 36. Before concluding the sales session, Defendants prompt the consumer  
18 to book an appointment for a fitness assessment, which Defendants use as an  
19 opportunity to pitch a personal training program, which is only sold onsite.

20 37. At the fitness assessment, Defendants' personal training staff offer  
21 consumers their personal training program, which they call their "Pro Results"  
22 program. This program provides personal training sessions at an additional,  
23 recurring cost.

24 38. As with general gym memberships, Defendants sell Pro Results  
25 memberships through the Sales Management Tool app.

26 39. Monthly dues for the personal training memberships range from \$180  
27 to \$660 per month. Consumers also pay one-time enrollment fees, processing fees,  
28 and initiation fees that usually range from \$99 to \$149.

1           40. Personal training staff enter consumers' membership details in the  
2 Sales Management Tool app and then add the information required to process  
3 future recurring credit card or debit card payments to the file.

4           41. As with the gym memberships, personal training staff present  
5 consumers with the personal training membership agreement on a screen. The  
6 consumers initial and sign the agreement using electronic signature capture pads.

7           42. The personal training agreements are generally for a term of six to  
8 twelve months with a negative option to convert to recurring monthly agreements.  
9 If consumers attempt to cancel before the end of the term, they must pay a fee  
10 equal to 50 percent of the remaining balance due through the end of the term.

11           43. Defendants do not provide disclosures regarding cancellation terms,  
12 including the cancellation fee, for personal training agreements before they  
13 populate the agreements.

14           44. When signing up for Pro Results, consumers have been given the  
15 option of signing up for additional negative option programs such as "HIIT by  
16 LAF," "Pilates by LAF" and "Hot Yoga by LAF." The cancellation methods for  
17 these additional negative option programs are not disclosed prior to enrollment or  
18 even in the membership agreement.

19           45. Once consumer signatures are collected, personal training sales staff  
20 have the option of printing a copy of the "Enhanced Membership Agreement for  
21 Personal Training and Other Services" to provide to the consumer after signature,  
22 sending the membership agreement to the email provided by the consumer or both.

23           46. Many consumers report that they were not provided with an email or  
24 printed version of the personal training membership agreement.

25                   **Defendants' Add-On Services and Amenities**

26           47. Defendants also offer over 50 additional services and amenities to  
27 their members, including childcare and towel service, which can be added to a  
28 consumer's account either online or onsite at the gym. For both onsite signups

1 with Defendants' sales staff and website signups, Defendants have failed to  
2 disclose that these services and amenities are separate negative option programs.  
3 Defendants also fail to disclose that the cancellation process for these add-on  
4 services is separate from cancellation for gym or personal training memberships,  
5 *i.e.*, that a consumer can cancel add-on services through less onerous means than  
6 Defendants offer for general gym or personal training memberships.

7 48. Instead, Defendants in many instances have represented to consumers  
8 that the add-ons are simply part of the general gym or personal training  
9 memberships, and that the terms and the cancellation procedures for the added  
10 services and amenities are the same as for their general gym membership or  
11 personal training membership. The failure to disclose the add-ons as separate  
12 negative option programs has given the misimpression to consumers that the add-  
13 ons are part of the same negative option programs as the gym memberships. Thus,  
14 many consumers do not understand that these add-ons can be canceled at any time,  
15 often through less onerous means, including through any employee at the front  
16 desk of Defendants' gyms.

17 **Defendants' Complex and Exacting Cancellation Methods**

18 49. For years, Defendants required consumers to use one of two complex  
19 and difficult processes to cancel gym memberships and personal training  
20 memberships: in-person cancellation or cancellation by mail. Defendants required  
21 these cancellation steps for all consumers. Defendants' cancellation methods have  
22 been restrictive in manner and accessibility. Defendants have failed to clearly and  
23 conspicuously disclose these cancellation requirements to consumers, before  
24 collecting consumers' billing information, when they enroll in Defendants' gym  
25 memberships.

26 *Defendants' Restrictive In-Person Cancellation Policies and Practices*

27 50. The first of the Defendants' two restrictive cancellation methods  
28 requires consumers to travel to the gym and cancel in person, with one specific

1 employee. Consumers must take several steps to satisfy Defendants' restrictive in-  
2 person cancellation practices.

3 51. To begin the cancellation process, Defendants have instructed  
4 consumers to first log in to Defendants' website and print a cancellation form. But  
5 many consumers are unfamiliar with Defendants' website because, as alleged  
6 above, Defendants actively encourage consumers to use their mobile app to locate  
7 their nearest gym location, check into a gym location upon arrival, book fitness  
8 classes, book personal training sessions, and check into fitness classes. Moreover,  
9 Defendants assist consumers, through the use of a QR code, in logging in to their  
10 mobile app. Defendants do not similarly guide members on how to how to access,  
11 log in to, or use their website.

12 52. Defendants have not offered their cancellation form through the  
13 mobile app, but instead have made it available only through their website.  
14 Defendants further complicate downloading their cancellation form by not making  
15 the form publicly available on their website, instead requiring consumers to login  
16 in order to download the cancellation form.

17 53. Consumers have been deterred from cancelling due to the login  
18 process to Defendants' website. Because Defendants encourage consumers to use  
19 their mobile app rather than their website, consumers often either do not know, or  
20 do not recall, their website login credentials. Consumers who need to reset their  
21 unique login credentials often find it difficult because they need to provide the  
22 original email address used to establish the membership account, the "key tag  
23 number" assigned at signup, and the first five digits of the bank account or credit  
24 card number listed on the account to process a credential reset request. Consumers  
25 frequently complain that, when attempting to cancel their memberships, they are  
26 unable to log in to Defendants' website. Moreover, even consumers who have  
27 access to the required information cannot set up or reset their login credentials.  
28 One consumer reported: "If you don't have an existing online login, they make you

1 enter your membership info, then say that they've sent you an email, but as of the  
2 writing of this complaint, I haven't received that email."

3 54. Consumers who are able to log in to Defendants' website and locate  
4 their cancellation form must then print out a cancellation form. However,  
5 consumers frequently do not have a printer at home, further complicating  
6 cancellation. One consumer reported, "I don't have or use a printer and think this  
7 is just a way to keep deducting money from my account, hoping I will forget about  
8 it."

9 55. Consumers who are able to log in and print out the cancellation form  
10 are directed to bring it to a brick-and-mortar gym location. However, Defendants  
11 strategically limit in-person cancellations. For example, they have accepted  
12 cancellation requests only between the hours of 9 a.m. and 5 p.m., Monday through  
13 Friday, even though their locations are generally open for as many as 19 hours per  
14 day and generally are open 7 days per week. Moreover, the restricted hours are  
15 limited to times when consumers are ordinarily working. Indeed, a report to the  
16 Better Business Bureau observed, "To require the average person to come in  
17 person between 900-1700 (9-5pm) means you expect us to use PTO [personal time  
18 off]...."

19 56. Defendants consistently directed consumers to use the specified form  
20 and did not clearly disclose that they allowed written notice containing  
21 substantially similar information, including the member "key tag number" and  
22 email used at sign up. For example, the Membership Questions section of the City  
23 Sports Club brand has provided consumers who wish to cancel with these  
24 instructions:

25 Club memberships with recurring dues may be cancelled by printing a  
26 cancellation form online. Click on My City Sports Club. Login, click  
27 on Account Information tab and then click on the "Cancellation  
28 Form" option on the right side of the screen. Mail the form to the

1 address listed on the form. We recommend you mail the notice by  
2 certified mail and keep a record for your files. Or, you can deliver the  
3 notice directly to the Operations Manager at the nearest City Sports  
4 Club facility between 9AM and 5PM on Monday through Friday (the  
5 days and times for in-club cancellations are subject to change  
6 depending upon the availability of Operations Manager). If you  
7 deliver the notice in person, please be sure to get a receipt for your  
8 records.

9 57. To make the process even more difficult for consumers, Defendants  
10 have required consumers to submit their cancellation requests to only one  
11 employee, the Operations Manager. Defendants have maintained this requirement  
12 even though, at each of their locations, Defendants have employed several  
13 additional consumer-facing operations staff at their front desks and two additional  
14 managers in addition to the Operations Manager. Yet Defendants have not  
15 authorized any of these additional personnel to accept gym or personal training  
16 cancellation requests.

17 58. One consumer described the difficulties these cancellation practices  
18 impose in a report to the Better Business Bureau:

19 Since June 2022 [my son] has been trying to cancel his membership.  
20 He travels for work constantly, home only on Sundays, when he  
21 attempted to do it in person, they told him he had to see the operation  
22 manager (who apparently only works from 9-4 M-F, or mail a  
23 cancellation request [by] certified mail ( [sic] which requires him to  
24 go to the post office, again only open during his working hours.  
25 Neither of these options work for him. He has tried over and over  
26 when he was home, and the manager was not in.

27 59. Even when consumers successfully navigate the myriad roadblocks to  
28 bring the form to a specific manager during the required hours to submit a

1 cancellation request in person, in many instances, they have been unable to submit  
2 their cancellation requests. Specifically, consumers often have not been able to  
3 meet with the Operations Manager, even during the posted hours when the  
4 Operations Manager was supposed to be available. In fact, Defendants have  
5 conceded as much in the FAQ portion of their websites, stating, “the days and  
6 times for in-club cancellations are subject to change depending on the availability  
7 of the Operations Manager.” Thus, as one consumer reported, “Every time I have  
8 attempted to [cancel in person], I have been told that the manager is not available  
9 and that there will be a follow-up. Unfortunately, there has never been any follow-  
10 up! This has been a recurring issue and it has left me feeling helpless and  
11 frustrated.”

12 60. When Defendants’ Operations Manager has been unavailable,  
13 Defendants have not permitted other employees, including other front-desk staff,  
14 sales staff, and other managers, to process the consumers’ membership  
15 cancellation requests.

16 *Defendants’ Cumbersome Mail Cancellation Requirements*

17 61. Until at least March 2024, the only alternative Defendants have  
18 offered nationwide to in-person cancellation has been to cancel by mail. As with  
19 in-person cancellation, Defendants have required consumers cancelling by mail to  
20 navigate to and successfully log in to their website, locate their cancellation form,  
21 and print this form, involving the difficulties alleged above. While Defendants  
22 accept written notice of cancellation for mail-in cancellation without using the  
23 specified form, they do not clearly and conspicuously disclose, before collecting  
24 consumers’ billing information at enrollment, this option to consumers and fail to  
25 inform consumers of what information must be in the notice. Defendants  
26 consistently advised consumers to use the specified form, and did not clearly  
27 disclose that they allowed written notice containing substantially similar  
28 information.



1           62. In their instructions, Defendants have “recommended” that consumers  
2 who attempt to cancel by mail should send their requests by certified or registered  
3 mail. Both options require that consumers go to a post office in-person and pay  
4 additional costs. Defendants present this “recommendation” in a list of  
5 requirements but do not explain that anything less than certified or registered mail  
6 is acceptable.

7           63. Even if a consumer is able to navigate all of the above steps,  
8 Defendants frequently do not process cancellation requests submitted by  
9 consumers by mail. As one consumer reported:

10           The company requires that you mail in a cancelation form. I have  
11 mailed multiple forms. The first couple I mailed were apparently ‘not  
12 received’[.] [C]ustomer service would not allow me to cancel the  
13 membership any other way so I have mailed 3 more cancelation forms  
14 via certified mail and I have proof of tracking for all 3 showing  
15 delivered and the company is still charging me for membership and  
16 will not cancel the membership.

17           64. Yet another consumer reported sending—and paying for—three  
18 certified letters to end their personal training membership over four months, only  
19 to find that they continued to be billed for that membership.

20           65. And even when Defendants have processed mailed-in cancellations  
21 and sent confirmation notices to consumers, in some instances, they have  
22 continued to charge consumers without their permission.

23           *Defendants Have Required Separate Cancellation of Each Negative Option*

24           66. Defendants have further complicated cancellation by not allowing  
25 consumers to cancel entire accounts through a single form when those accounts  
26 include multiple negative option memberships. Rather, Defendants have required  
27 that consumers cancel each membership by a separate form. Thus, for example,  
28 for family add-on accounts, where one individual pays for multiple members,

1 consumers have been required to submit forms for each family member. This  
2 requirement, when added to Defendants' cumbersome cancellation requirements,  
3 has ensured that even consumers who are able to cancel one recurring membership  
4 often continue to be billed for another. These consumers have often found that  
5 they lack recourse to cancel the memberships for which Defendants continue to bill  
6 them. As one consumer reported:

7 My personal trainer cancellation went through but my membership  
8 did not. Now I no longer have my details to log onto the website and  
9 every time I call I get put on hold and told I just have to print the form  
10 and send it in. I cannot do this because I don't have my info anymore  
11 and they [can't] be bothered to help me get it. I don't think this is the  
12 branch per se since I keep getting referred to corporate[.] I'm writing  
13 this after getting off the phone with them again where after explaining  
14 the situation I was promptly told call back tomorrow and hung up on.

15 67. Defendants' cancellation practices also have been inconsistent across  
16 their negative option programs. While Defendants have required consumers to  
17 complete the cancellation requirements detailed above for gym and personal  
18 training memberships, consumers could cancel add-ons by visiting the front desk  
19 and speaking to any front desk attendant. However, Defendants do not disclose  
20 this cancellation method for add-on services in writing anywhere.

21 *Defendants Deny Escalated Cancellation Requests*

22 68. Rather than simplifying their cancellation practices, for years  
23 Defendants have instead employed a team of staff to refuse membership  
24 cancellation requests that consumers escalate via telephone or email.

25 69. When consumers call or email Defendants' corporate headquarters,  
26 those communications are assigned to management staff at individual club  
27 locations for response. Defendants receive more complaints by telephone and  
28 email related to cancellation than to any other issue.

1           70. Rather than simply processing these escalated cancellation requests,  
2 Defendants have directed the managers to refuse them through prepared scripts.  
3 These scripts direct consumers to follow the cancellation process, *e.g.*, in person or  
4 by mail, alleged above even though Defendants give these managers the ability,  
5 within their computer systems, to cancel consumers' memberships. However,  
6 Defendants authorize these managers to process cancellations only in-person, when  
7 submitted pursuant to Defendants' policy. Defendants prohibit these same  
8 managers from processing cancellations that consumers submit by email. Some of  
9 these emails expressly state that consumers were unable to cancel pursuant to  
10 Defendants' policy.

11           71. In many cases, Defendants' directions add insult to injury for  
12 consumers who are complaining to Defendants' headquarters only after submitting  
13 cancellation requests according to Defendants' instructions without success.  
14 Defendants' scripts state that consumers must follow the restrictive cancellation  
15 processes, implausibly, in order "[t]o protect the privacy of our members." As one  
16 consumer noted, "There's no privacy protection for members, you guys just want  
17 to make it difficult."

18           72. In contrast to how Defendants treat direct consumer complaints, when  
19 Defendants receive a Better Business Bureau or state attorney general complaint,  
20 their staff work to quickly resolve the matter. In these circumstances, Defendants  
21 cancel memberships without requiring that their onerous procedures be followed,  
22 provide refunds, and waive termination fees for personal training. Defendants'  
23 responses to state attorneys general generally report that Defendants have resolved  
24 the matter with the consumer and attempt to explain the cancellation policy by  
25 reassuring, "This cancellation policy is not designed to make it difficult for our  
26 members to cancel, but rather to ensure cancellations are handled properly."

27           73. Defendants have continued to impose these complicated and onerous  
28 cancellation requirements on consumers nationwide despite adopting different

1 practices in the limited number of states that require specific simpler means of  
2 cancellation for gyms, such as cancellation by email or online.

3 *Defendants Aggressively Override Consumers' Attempts to Cancel their*  
4 *Memberships through their Banks and Credit Cards*

5 74. Consumers who are unable to cancel through Defendants'  
6 complicated cancellation options and cannot obtain relief through an escalated  
7 request often contact their bank or credit card company to try to shield their  
8 accounts from Defendants' automatic recurring payments. But Defendants deploy  
9 aggressive tactics to continue rebilling even these desperate consumers, including  
10 by billing new account numbers. As one consumer reported, "on June 6  
11 [Defendants] tried to use my old card and it was declined. Then on June 8 they hit  
12 my new card. I didn't give them the new card...."

13 75. Defendants' cancellation practices have caused substantial injury  
14 including hundreds of millions of dollars in consumer harm. Consumers were not  
15 able to avoid this harm because, as alleged above, Defendants have not clearly  
16 disclosed how to cancel. Consumers who joined Defendants' gyms had no choice  
17 but to endure Defendants' cumbersome practices if they wanted to cancel their  
18 membership.

19 76. Neither the imposition of the exceedingly difficult cancellation  
20 methods nor the failure to clearly disclose them is outweighed by benefits to  
21 consumers or competition. There are no benefits to unnecessarily onerous  
22 cancellation procedures, and Defendants have provided alternate cancellation  
23 methods in the states where required by state law. For years, Defendants were able  
24 to offer less onerous cancellation methods to all their consumers but chose to  
25 withhold them. And Defendants' exceedingly difficult cancellation methods are  
26 unfair and far from simple.

27 77. Not until eight months after receiving a Civil Investigative Demand  
28 from the Commission did Defendants begin to offer website cancellation for their

1 subscriptions with stand-alone agreements. Defendants still do not permit  
2 consumers to cancel through their mobile apps.

3 78. However, Defendants' online cancellation mechanism still imposes  
4 unnecessary burdens on consumers. For example, to cancel online, consumers still  
5 must log in to Defendants' website, requiring them to identify and potentially reset  
6 their login credentials, which is often difficult, as alleged above. Then, they must  
7 navigate to the cancellation tab and select an option to cancel their membership.

8 79. In addition, Defendants continue to bury any mention of the online  
9 cancellation method during website enrollment, mentioning it only after the two  
10 more cumbersome methods and before language regarding specific state  
11 cancellation methods. Finally, when Defendants respond to consumers or  
12 consumer entities regarding cancellation complaints, they often do not mention  
13 online cancellation as an option.

14 80. Based on the facts and violations of law alleged in this Amended  
15 Complaint, the FTC has reason to believe that Defendants are violating or are  
16 about to violate laws enforced by the Commission because, among other things:  
17 Defendants' practices remained unchanged for months after receiving a Civil  
18 Investigative Demand from the Commission; Defendants changed their  
19 cancellation procedures only after learning of the Commission's investigation;  
20 Defendants engaged in their unlawful conduct repeatedly over many years and  
21 continued their unlawful conduct despite knowledge of thousands of consumer  
22 complaints; and Defendants remain in the business of health and fitness clubs and  
23 are expanding their presence in the market and therefore maintain the means,  
24 ability, and incentive to resume any unlawful conduct which has ceased.

### 25 **VIOLATIONS OF THE FTC ACT**

26 81. Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), prohibits "unfair or  
27 deceptive acts or practices in or affecting commerce."

28 82. Acts or practices are unfair under Section 5 of the FTC Act if they

1 cause or are likely to cause substantial injury to consumers that consumers cannot  
2 reasonably avoid themselves and that is not outweighed by countervailing benefits  
3 to consumers or competition. 15 U.S.C. § 45(n).

#### 4 **COUNT I**

##### 5 **Unfair Cancellation Practices (Onsite Enrollees)**

6 83. In numerous instances, as described in Paragraphs 19 through 21 and  
7 31 through 80 above, Defendants' unreasonable cancellation practices have made it  
8 difficult for consumers to cancel memberships and other recurring charges.

9 84. Defendants' acts or practices cause or are likely to cause substantial  
10 injury to consumers that consumers cannot reasonably avoid themselves and that is  
11 not outweighed by countervailing benefits to consumers or competition.

12 85. Therefore, Defendants' acts or practices as described in Paragraph 83  
13 constitute unfair acts or practices in violation of Section 5 of the FTC Act, 15  
14 U.S.C. § 45(a), (n).

#### 15 **VIOLATIONS OF**

##### 16 **THE RESTORE ONLINE SHOPPERS' CONFIDENCE ACT**

17 86. In 2010, Congress passed ROSCA, 15 U.S.C. §§ 8401-05, which  
18 became effective on December 29, 2010. Congress passed ROSCA because  
19 "[c]onsumer confidence is essential to the growth of online commerce. To  
20 continue its development as a marketplace, the Internet must provide consumers  
21 with clear, accurate information and give sellers an opportunity to fairly compete  
22 with one another for consumers' business." Section 2 of ROSCA, 15 U.S.C.  
23 § 8401.

24 87. Section 4 of ROSCA, 15 U.S.C. § 8403, generally prohibits charging  
25 consumers for goods or services sold in transactions effected on the Internet  
26 through a negative option feature, as that term is defined in the FTC's  
27 Telemarketing Sales Rule ("TSR"), 16 C.F.R. § 310(w), unless the seller:  
28 (a) clearly and conspicuously discloses all material terms of the transaction before

1 obtaining the consumer's billing information; (b) obtains the consumer's express  
2 informed consent before making the charge; and (c) provides simple mechanisms  
3 to stop recurring charges. *See* 15 U.S.C. § 8403.

4 88. The TSR defines a negative option feature as: "in an offer or  
5 agreement to sell or provide any goods or services, a provision under which the  
6 consumer's silence or failure to take an affirmative action to reject goods or  
7 services or to cancel the agreement is interpreted by the seller as acceptance of the  
8 offer." 16 C.F.R. § 310.2(w).

9 89. As described in Paragraphs 19 through 30 and 49 through 80,  
10 Defendants have created and manage scores of negative option features as defined  
11 by the TSR, 16 C.F.R. § 310.2(w), including general gym memberships, personal  
12 training membership, and related services and amenities.

13 90. Pursuant to Section 5 of ROSCA, 15 U.S.C. § 8404(a), and Section  
14 18(d)(3) of the FTC Act, 15 U.S.C. § 57a(d)(3), a violation of ROSCA constitutes  
15 an unfair or deceptive act or practice in or affecting commerce, in violation of  
16 Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

## 17 **COUNT II**

### 18 **Violation of ROSCA—Inadequate Disclosures (Website Enrollees)**

19 91. In numerous instances, in connection with charging consumers for  
20 goods or services sold in transactions effected on the Internet through a negative  
21 option feature, as described in Paragraphs 19 through 30 and 49 through 80, above,  
22 Defendants have failed to clearly and conspicuously disclose all material terms of  
23 the transaction, before obtaining the consumer's billing information, including:

- 24 a. the method of cancellation; and  
25 b. that their add-on services and amenities are separate negative option  
26 programs that are subject to separate cancellation requirements.

27 92. Therefore, Defendants' practices as set forth in Paragraph 91 are  
28 violations of Section 4 of ROSCA, 15 U.S.C. § 8403(1), and are therefore



violations of a rule promulgated under Section 18 of the FTC Act, 15 U.S.C. § 57a, 15 U.S.C. § 8404(a), and therefore constitute an unfair or deceptive act or practice in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

### **COUNT III**

#### **Violation of ROSCA—Failure to Provide Simple Cancellation Mechanism (Website Enrollees)**

93. In numerous instances, in connection with charging consumers for goods or services sold in transactions effected on the Internet through a negative option feature, as described in Paragraphs 19 through 30 and 49 through 80, above, Defendants fail to provide simple mechanisms for a consumer to stop recurring charges for the good or service to the consumer's credit card, debit card, bank account, or other financial account.

94. Defendants' practices as set forth in Paragraph 93 are violations of Section 4 of ROSCA, 15 U.S.C. § 8403(3), and are therefore violations of a rule promulgated under Section 18 of the FTC Act, 15 U.S.C. § 57a, 15 U.S.C. § 8404(a), and therefore constitute an unfair or deceptive act or practice in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

### **CONSUMER INJURY**

95. Consumers are suffering, have suffered, and will continue to suffer substantial injury as a result of Defendants' violations of Section 5(a) and ROSCA. Absent injunctive relief by this Court, Defendants are likely to continue to injure consumers and harm the public interest.

### **PRAYER FOR RELIEF**

Wherefore, Plaintiff requests that the Court:

A. Enter a permanent injunction to prevent future violations of Section 5(a) of the FTC Act and ROSCA by Defendants;

B. Award monetary and other relief within the Court's power to grant;

1 C. Award any additional relief as the Court determines to be just and  
2 proper.

3 Respectfully submitted,

4 

5 SERENA MOSLEY-DAY

6 REID TEPFER

7 EDWARD HYNES

8 Federal Trade Commission

9 1999 Bryan Street

10 Suite 2150

11 Dallas, TX 75201

12 (214) 979-9390;

13 [smosleyday@ftc.gov](mailto:smosleyday@ftc.gov) (Mosley-Day)

14 (214) 979-9395;

15 [reidteper@ftc.gov](mailto:reidteper@ftc.gov) (Tepfer)

16 (214) 979-9381;

17 [ehynes@ftc.gov](mailto:ehynes@ftc.gov) (Hynes)

18 DAVID L. HANKIN

19 Federal Trade Commission

20 10990 Wilshire Boulevard

21 Suite 400

22 Los Angeles, CA 90024

23 (310) 824-4317

24 [dhankin@ftc.gov](mailto:dhankin@ftc.gov)

ATTORNEYS FOR PLAINTIFF  
FEDERAL TRADE COMMISSION