

IN THE DISTRICT COURT OF LANCASTER COUNTY, NEBRASKA

STATE OF NEBRASKA, ex rel.	:	
DOUGLAS J. PETERSON, ATTORNEY	:	CI 19-2366
GENERAL	:	
	:	
Plaintiff,	:	
	:	AMENDED
v.	:	COMPLAINT
	:	
HILTON DOPCO INC.,	:	
a/k/a	:	
HILTON DOMESTIC OPERATING	:	
COMPANY INC.	:	
	:	
Defendant.	:	
<hr/>		

AMENDED COMPLAINT FOR INJUNCTIVE AND OTHER RELIEF

COMES NOW, the State of Nebraska, ex rel. Douglas J. Peterson, Nebraska Attorney General, by and through the undersigned Assistant Attorney General (hereinafter “Attorney General”, “State”, or “Plaintiff”), and brings this action against Defendant Hilton Dopco Inc., also known as Hilton Domestic Operating Company Inc. (hereinafter “Defendant”), for violating the Consumer Protection Act, Neb. Rev. Stat. § 59-1601 et seq. (hereinafter “Consumer Protection Act) and the Uniform Deceptive Trade Practices Act, Neb. Rev. Stat. § 87-301 et seq. (hereinafter Uniform Deceptive Trade Practices Act).

Plaintiff files this Amended Complaint to address image quality issues that arose with the filing of Plaintiff’s initial Complaint.

INTRODUCTION

The Attorney General brings this action to protect the public from Defendant's misrepresentations, and pursuant to his general statutory and common law authority, powers, and duties. The Attorney General has cause to believe that the above-named Defendant has violated and is continuing to violate the Consumer Protection Act and the Uniform Deceptive Trade Practices Act. The Attorney General also has reason to believe that this action is in the public interest because Defendant has deceived, misled, and caused financial harm to Nebraska consumers as well as consumers from other states.

In support of this action, the Attorney General respectfully represents the following:

1. Defendant is a Virginia-based hospitality company that owns, manages, and franchises hotels and resorts throughout the United States. It offers hotel lodging to Nebraska consumers, which consumers may reserve by contacting one of Defendant's hotels directly, calling Defendant's toll-free telephone number, visiting Defendant's online reservation website ("website"), or by using an online travel agency ("OTA") such as Expedia or Priceline.
2. Defendant conducts its business through various corporate entities operating under multiple trade names, including but not limited to Hilton, DoubleTree, Embassy Suites, Waldorf Astoria, Homewood Suites, Hilton Garden Inn, Hampton Inn and Tru.
3. Defendant advertises and promotes its hotel rooms by advertising a nightly room rate ("room rate"). This allows consumers, including consumers residing in Nebraska, to compare prices when shopping for a hotel room when they contact Defendant by telephone, visit its website, or use an OTA to book a hotel. Many consumers, including those residing

in Nebraska, use Defendant's website to compare the nightly room rates at Defendant's hotels versus other hotels and to select and book a hotel room online.

4. At issue in this action is the unlawful trade practice of "drip pricing," whereby Defendant initially hides a portion of a hotel room rate only to disclose it much later to the consumer in the booking process. Defendant calls this hidden portion of the room rate a number of terms, including a "resort fee," "resort charge," "daily mandatory charge," or "daily resort charge" (referred to collectively hereafter as "resort fees").
5. Defendant has engaged in the aforementioned practice since at least 2012.
6. With respect to certain hotels designated by Defendant as "resorts," a resort fee is a mandatory, nightly fee purportedly charged to cover the value of certain amenities offered at resort properties. In some instances, Defendant refers to the resort fee as a "daily" fee, although Plaintiff has reason to believe it is assessed by Defendant on a per night basis not per day.
7. Recently, Defendant began charging similar mandatory fees at its non-resort properties located in larger cities. Defendant refers to these fees as "urban destination fees" or "daily mandatory charges." These mandatory fees are essentially the same as a resort fee.
8. Defendant's practice of omitting the resort fee from the room rate allows Defendant to advertise its hotel rooms at artificially low prices relative to its competition.
9. Defendant either does not disclose that these resort fees will be added to the room rate during the reservation process or the fees are disclosed in a fashion that is not likely to alert consumers that the advertised room rates do not, in fact, include all nightly room charges that must be paid for lodging.

10. As a result of these practices, consumers, including those residing in Nebraska, are likely to be misled or confused concerning the true cost of an overnight stay at one of Defendant's hotels.
11. As a result of these practices, consumers, including those residing in Nebraska, have been unable to effectively and accurately compare hotel room rates.
12. Further, Defendant misrepresents to consumers that the resort fee includes bundled amenities that Defendant might otherwise require hotel guests to pay for separately, such as access to the hotel's fitness center or local telephone calls.
13. By this action, the State seeks to hold Defendant accountable for its unfair and deceptive conduct. The State seeks injunctive relief to prevent Defendant from engaging in these and similar unlawful trade practices, civil penalties to deter Defendant and others similarly situated from engaging in these and similar unlawful trade practices, and the payment of costs, and restitution based on the harm consumers have experienced due to Defendant's conduct.

THE PARTIES

14. Plaintiff is the State of Nebraska, ex rel. Nebraska Attorney General Douglas J. Peterson. Pursuant to the Consumer Protection Act and Uniform Deceptive Trade Practices Act, the Attorney General may initiate civil law enforcement proceedings in the name of the State to enjoin violations of the Consumer Protection Act and Uniform Trade Practices Act and secure such equitable and other relief as may be appropriate in each case.
15. Defendant Hilton Dopco Inc., also known as Hilton Domestic Operating Company Inc., is an American multinational hospitality company that owns, manages and franchises a broad

portfolio of hotels and lodging facilities throughout the United States. It is incorporated in the state of Delaware and is headquartered at 7930 Jones Branch Drive, McLean, Virginia 22102. The Defendant was and continues to be, at all times relevant hereto, engaged in trade or commerce in the state of Nebraska by advertising, offering, and selling hotel lodging both within Nebraska and to Nebraska consumers.

JURISDICTION

16. The District Court of Lancaster County has jurisdiction over Defendant and the subject matter of this action pursuant to Neb. Rev. Stat. § 59-1608 and Neb. Rev. Stat. § 87-303.05(1) because Defendant has transacted business within the State of Nebraska at all times relevant to this Complaint.

VENUE

17. Venue for this action properly lies in the District Court of Lancaster County pursuant to Neb. Rev. Stat. § 59-1608.01 and Neb. Rev. Stat. § 87-303.05(1) because Defendant has transacted business in Lancaster County, Nebraska and throughout Nebraska.

FACTUAL ALLEGATIONS

18. The instant action was commenced following an investigation of Defendant by multiple state attorneys general regarding the pricing practices of the hotel industry. The hotel industry has become highly price competitive. Consumers rely increasingly on the internet and OTA websites, like Priceline and Expedia, to compare room rates across hotel brands for a specified destination or date range.

19. As detailed more fully below, Defendant advertises its room rates in a manner that is likely to deceive and mislead consumers by failing to include Defendant's mandatory resort fee in the initially advertised room rate.
20. Defendant owns, manages or franchises at least 78 properties in the United States that charge consumers resort fees. The amount of the resort fee ranges from fifteen dollars (\$15) to as much as forty-five dollars (\$45) per night at resorts that charge a flat resort fee, and fourteen percent (14%) to twenty percent (20%) of the room rate at resorts that charge a resort fee as a percentage of the room rate.
21. Hundreds of Nebraska consumers have paid Defendant's resort fees since 2012.
22. Defendant charges these additional mandatory resort fees as a means to increase revenue while keeping room rates artificially low. It opts not to include the resort fee in the room rate because doing so would effectively increase the price of a hotel room, thereby putting Defendant's hotels at a competitive disadvantage.
23. Many of the amenities purportedly covered by the resort fee are generally complimentary and appear to be provided free-of-charge at Defendant's non-resort properties, such as access to the fitness center, in-room internet access, and local and toll-free calls.
24. Resort fees are not optional. Defendant charges the resort fee regardless of whether the consumer actually uses the amenities. In other words, the fees are unavoidable.
25. Defendant trained its representatives, including those providing support for telephone reservations and front desk staff, to disclose the existence of the resort fee. Yet, Defendant knew its representatives were often failing to disclose the existence of the resort fee to consumers over the phone, online, and sometimes in person.

The Rate Comparison & Reservation Process on Hilton.com

26. Defendant’s current website may be found online at www.Hilton.com.

27. At all times relevant hereto, Defendant had, and continues to have, control over the content and advertising displayed to consumers on its website.

28. When a consumer searches Defendant’s website for hotels in a specific location a list of Defendant’s hotels will appear on an initial page referred to hereafter as the “search results page.” For example, a consumer searching for hotels near Las Vegas, Nevada will see the following nightly room rates for Hilton hotels in the area, including the Tropicana Las Vegas, a DoubleTree by Hilton hotel.

The screenshot displays the Hilton Honors website interface. At the top, there are navigation links for 'MEMBER BENEFITS', 'POINTS', 'OFFERS', 'ACCESS', 'TRAVEL INSPIRATION', 'DOWNLOAD APP', and 'GET SUPPORT'. The search bar indicates 'You searched for: Las Vegas, NV · 16 Aug 2019 - 17 Aug 2019 · 1 room for 1 adult'. Below the search bar, there are options to 'List view' or 'Map view', and a 'Show price per night in USD (\$) Points' selector. The main content area shows a list of 26 matching hotels. On the left, there is a 'Narrow Your Search' sidebar with filters for amenities (e.g., Airport Shuttle, Digital Key, Free Breakfast) and hotel brands (e.g., DoubleTree, Embassy Suites by Hilton). The hotel listings include:

- Tropicana Las Vegas - a DoubleTree by Hilton hotel**: \$438 ~~\$438~~ **\$95** HONORS DISCOUNT. Description: Set on famed Four Corners of the Vegas Strip, experience our South-Beach inspired rooms, award-winning pool, and world-class entertainment, casino & spa. Distance: 1.03 mile.
- Hilton Grand Vacations at the Flamingo**: \$148 ~~\$148~~ **\$117** HONORS DISCOUNT. Description: Conveniently located at the Flamingo Hotel on the Strip, accessible to the Monorail, this resort offers luxurious studios, one & two-bedroom suites. Distance: 0.25 mile.
- Flara by Hilton Grand Vacations - Center Strip**: Sold out for these dates. Description: Center Strip studios & spacious suites with in-room entertainment systems & kitchens, adjacent to Miracle Mile shops & Planet Hollywood Resort & Casino. Distance: 0.48 mile.
- Waldorf Astoria Las Vegas**: \$287 ~~\$287~~ **\$261** HONORS SEMI-FLEX. Description: In the center of the Strip, Waldorf Astoria Las Vegas features luxurious guest rooms and suites, unparalleled culinary offerings, and world-class spa. Distance: 0.5 mile.
- Hilton Garden Inn Las Vegas City Center**: \$134 ~~\$134~~ **\$111** HONORS DISCOUNT. Description: Our stylish hotel is within walking distance of the Strip and just minutes from downtown. Enjoy complimentary shuttle service and room service. Distance: 0.79 mile.
- Homewood Suites by Hilton Las Vegas City Center**: \$174 ~~\$174~~ **\$144** HONORS DISCOUNT. Description: New hotel steps away from famous Las Vegas Strip. Enjoy entertainment, shopping, and all that the entertainment capital of the world has to offer. Distance: 0.79 mile.

29. On the far right-hand side of the search results page, Defendant displays two associated room rates for each hotel—a Honors Discount rate and a non-Honors Discount rate. The Honors Discount rate is available to consumers who participate in the Hilton Honors Loyalty Program and is displayed prominently in large black font. The non-Honors Discount Rate is displayed immediately to the left of the Honors Discount Rate in much smaller font with a line crossed through it.
30. At this stage of the reservation process, both the Honors Discount and non-Honors Discount room rates do not include the resort fee the consumer will eventually be charged, and there is no disclosure explaining this to the consumer. In fact, there is no mention of resort fees whatsoever on the search results page.
31. A consumer may compare room rates identified on the search results page by using the “Sort by” feature at the top of the page and selecting “price” from the drop-down menu. However, due to Defendant’s deceptive practice of not including the resort fee in the room rate at this stage in the booking process, a consumer is likely to misunderstand the true price of a room at those hotels that charge resort fees. This confusion and misunderstanding has the potential of causing the consumer to select unwittingly the more expensive hotel.
32. For example, as of late June 2019, a consumer who searched Defendant’s website for hotels near Las Vegas, Nevada and sorted the results by price would have found the Tropicana Las Vegas and the Hilton Lake Las Vegas Resort & Spa listed consecutively at Honors Discount rates of \$95 and \$96, respectively. The results appeared as follows.



MEMBER BENEFITS POINTS OFFERS ACCESS TRAVEL INSPIRATION DOWNLOAD APP GET SUPPORT

Narrow Your Search

Show All
 Show Available Only

40 mile radius from Las Vegas, NV
or select another

Filters

Amenities

- Airport Shuttle
- Digital Key
- Fitness Center
- Free Breakfast
- Free Parking
- Free Wi-Fi
- Indoor Pool
- Meeting Rooms
- Outdoor Pool
- Pets allowed
- Resort Property
- Restaurant On-Site
- Room Service
- Spa

Hotel brands [Clear all](#)

- DoubleTree
- Embassy Suites by Hilton
- Hampton by Hilton
- Hilton
- Hilton Garden Inn
- Hilton Grand Vacations
- Home2 Suites
- Homewood Suites
- Tru by Hilton
- Waldorf Astoria





[Apply Filters](#) [Reset](#)

You searched for: Las Vegas, NV · 16 Aug 2019 - 17 Aug 2019 · 1 room for 1 adult [Change](#)

[List view](#) [Map view](#) 1-800-4HONORS

Sort by: **Price** Show price per night in **USD(\$)** [Points](#)

26 matching hotels

 Quick Look	Tropicana Las Vegas - a DoubleTree by Hilton Hotel Set on famed Four Corners of the Vegas Strip, experience our South-Beach inspired rooms, award-winning pool, and world-class entertainment, casino & spa Compare 1.03 mile Map ✓ Your dates qualified for lower rates. Book here now.	\$120 \$95 HONORS DISCOUNT Book a Room
 Quick Look	Hilton Lake Las Vegas Resort & Spa Resort hotel on beautiful Lake Las Vegas with nearby golf, on-site spa, salon, and resort pool with cabanas. Compare DIGITAL KEY OFFERED 13.48 mile Map ✓ Your dates qualified for lower rates. Book here now.	\$100 \$96 HONORS DISCOUNT Book a Room
 Quick Look	Hampton Inn & Suites Las Vegas South A relaxing retreat close to all the action, including the Strip, Lake Mead, Red Rock Canyon, Hoover Dam and the new Lake Las Vegas entertainment complex Compare DIGITAL KEY OFFERED 8.55 mile Map ✓ Your dates qualified for lower rates. Book here now.	\$117 \$97 HONORS DISCOUNT Book a Room
	Embassy Suites by Hilton Las Vegas	

33. Unbeknownst to the consumer at this stage of the booking process, the room rate for the Tropicana Las Vegas was deceptively low because this hotel charges an additional \$37 per night resort fee that is added onto the room rate. Neither the amount nor the existence of this resort fee is disclosed on this search results page.

34. By comparison, the Hampton Inn and Suites Las Vegas South does not add a resort fee onto its room rate and is, in fact, the more affordable option. Yet, the consumer is likely to be misled into selecting the Tropicana Las Vegas because—without any disclosure of the resort fee charged by this hotel—it initially appeared to be the more affordable of the two options.
35. A consumer wishing to compare the two hotels might elect to use Defendant’s comparison feature to learn more about the properties and their corresponding fees and amenities. In order to do so, the consumer would need to check the box next to the word “compare” underneath each hotel’s description on the search results page and then click on one of the blue “compare” hyperlinks.

The screenshot displays the Hilton Honors search results page for Las Vegas, NV, from August 16-17, 2019. The page features a navigation bar with links for Member Benefits, Points, Offers, Access, Travel Inspiration, Download App, and Get Support. A search filter on the left allows narrowing results by radius (40 miles) and amenities. The main content area shows 26 matching hotels, with three highlighted:

- Tropicana Las Vegas - a DoubleTree by Hilton Hotel:** Set on famed Four Corners of the Vegas Strip, experience our South-Beach inspired rooms, award-winning pool, and world-class entertainment, casino & spa. Price: ~~\$499~~ \$95 (HONORS DISCOUNT). Distance: 1.03 mile. Includes a 'Compare' checkbox and a 'Book a Room' button.
- Hilton Lake Las Vegas Resort & Spa:** Resort hotel on beautiful Lake Las Vegas with nearby golf, on-site spa, salon, and resort pool with cabanas. Price: ~~\$499~~ \$96 (HONORS DISCOUNT). Distance: 13.48 mile. Includes a 'Compare' checkbox and a 'Book a Room' button.
- Hampton Inn & Suites Las Vegas South:** A relaxing retreat close to all the action, including the Strip, Lake Mead, Red Rock Canyon, Hoover Dam and the new Lake Las Vegas entertainment complex. Price: ~~\$447~~ \$97 (HONORS DISCOUNT). Distance: 8.55 mile. Includes a 'Compare' checkbox and a 'Book a Room' button.

36. Yet even an enterprising consumer would not be able to find the Tropicana Las Vegas resort fee disclosure by using Defendant’s comparison feature. Rather, the consumer would see the following page (hereinafter “the comparison page”), which nowhere mentions the resort fee that applies to the Tropicana Las Vegas.

Hilton HONORS

MEMBER BENEFITS POINTS OFFERS ACCESS TRAVEL INSPIRATION DOWNLOAD APP GET SUPPORT

Hotel Comparison

[Back to search results](#)

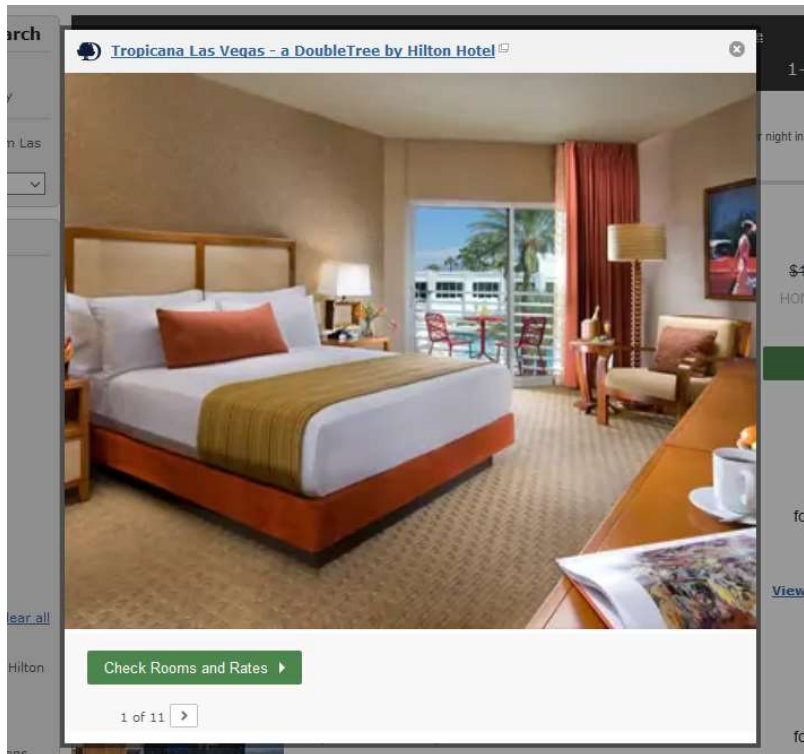
Hotel	Remove from compare	Remove from compare
	Tropicana Las Vegas - a DoubleTree by Hilton Hotel	Hampton Inn & Suites Las Vegas South
Location View all on a map	3801 Las Vegas Blvd South, Las Vegas, Nevada, 89109, USA +1-702-739-2222	3245 St. Rose Parkway, Henderson, Nevada, 89052, USA +1-702-385-2200
	Your dates qualified for lower rates. Book here now.	Your dates qualified for lower rates. Book here now.
Show price per night in USD(\$) Points		
Availability Arrival: 16 Aug 2019 Departure: 17 Aug 2019 1 room for 1 night	\$130 \$95 HONORS DISCOUNT	\$117 \$97 HONORS DISCOUNT
	Book a room	Book a room
Hotel Currency	USD	USD
Pets	Service animals only	Pets allowed
Registration	Check-in time: 3:00 pm Check-out time: 11:00 am	Check-in time: 3:00 pm Check-out time: 12:00 pm

Transportation		
Distance from airport	McCarran International Airport - 3 mi.	McCarran International Airport - 10 mi.
Airport transportation	Bus Service- \$7.00 Limousine- \$75.00 Super Shuttle- Call Hotel for information Rental Car- Call Hotel for information Taxi- \$18.00	Bus Service- Call Hotel for information Courtesy Bus- Call Hotel for information Super Shuttle- Call Hotel for information Taxi- \$25.00
Nearest train station	N/A	No nearby train station
Parking		
Facilities		
Restaurant On-Site	5	✗
Bars	1	✗
Meeting Rooms	47	2
Guest rooms	1470	133
Smoking Rooms	✓	✗
Accessible Rooms	✓	✓
In-Room Wired Internet	✓	✓
In-Room Wireless Internet	✓	✓
Public Wireless Internet	✓	✓
Services and Amenities		
Business Center	✓	✓
Executive Rooms	✗	✗
Room Service	✓	✗
Recreation/Fitness	Fitness Center, Outdoor Pool	Fitness Center, Outdoor Pool, Whirlpool
Spa	✓	✗
Family		
Cribs	✓	✓
High-Chairs	✓	✓
Children's Menu	✗	✗

Accessible Features		
Features Available	<ul style="list-style-type: none"> ▪ Accessible ▪ Accessible Rooms ▪ Accessible business center ▪ Accessible concierge desk ▪ Accessible exercise facility ▪ Accessible guest rooms with mobility features with entry or passage doors that provide 32" of clear width ▪ Accessible hotel restaurant ▪ Accessible parking ▪ Accessible parking spaces for cars in the self-parking facility ▪ Accessible public entrance ▪ Accessible registration desk ▪ Accessible route from the accessible public entrance to the accessible guestrooms ▪ Accessible route from the accessible public entrance to the registration area ▪ Accessible route from the hotel's accessible entrance to the meeting room/ballroom area ▪ Accessible route from the hotel's accessible public entrance to at least one restaurant ▪ Accessible route from the hotel's accessible public entrance to the business center ▪ Accessible route from the hotel's accessible public entrance to the exercise facilities ▪ Accessible route from the hotel's accessible public entrance to the spa ▪ Accessible route from the hotel's accessible public entrance to the swimming pool ▪ Accessible swimming pool ▪ Accessible transportation with advance notice ▪ Assistive listening devices for meetings upon request ▪ Closed captioning on televisions or closed captioning decoders 	<ul style="list-style-type: none"> ▪ Accessible Rooms ▪ Accessible guest rooms with mobility features with entry or passage doors that provide 32" of clear width ▪ Accessible hotel restaurant ▪ Accessible parking spaces for cars in the self-parking facility ▪ Accessible public entrance ▪ Accessible registration desk ▪ Accessible route from the accessible public entrance to the accessible guestrooms ▪ Accessible route from the accessible public entrance to the registration area ▪ Accessible route from the hotel's accessible entrance to the meeting room/ballroom area ▪ Accessible route from the hotel's accessible public entrance to at least one restaurant ▪ Accessible route from the hotel's accessible public entrance to the business center ▪ Accessible route from the hotel's accessible public entrance to the exercise facilities ▪ Accessible route from the hotel's accessible public entrance to the spa ▪ Accessible route from the hotel's accessible public entrance to the swimming pool ▪ Accessible swimming pool ▪ Assistive listening devices for meetings upon request ▪ Closed captioning on televisions or closed captioning decoders ▪ Portable shower chairs ▪ Service animals welcome ▪ TTY for guest use ▪ Van-accessible parking in the self-parking facility

37. If the consumer clicks directly on the hotel name, which appears in blue, underlined font, on the search results page or under the hotel's picture on the comparison page, the following pop-up window appears. Defendant does not disclose the existence of a resort

fee in this pop-up, but instead includes only photos of the specific property selected by the consumer.



38. If the consumer selected the rate for the Tropicana Las Vegas hotel by clicking the green “Book a Room” button on the search results page or the comparison page, on or before June 28, 2019, the consumer was directed to the second page of the booking process that provided, in part, the following information.

Sign In Join **Hilton**
HONORS

DOUBLE TREE by Hilton Tropicana Las Vegas - a DoubleTree by Hilton Hotel Step 2 of 5

3801 Las Vegas Blvd South, Las Vegas, Nevada, 89109, USA +1-702-739-2222
[Hotel Details](#) | [Change hotel](#)

Reservation Summary
 16 Aug 2019 - 17 Aug 2019, 1 room for 1 adult [Change](#)

Your dates qualified for lower rates. Book here now.

Daily Resort Charge will be added to the room rate and includes: Internet access; fitness center access; valet/self parking; buy 1-get 1 free cocktail, beer or wine in Oakville Steakhouse 5pm to 7pm; 2 for 1 at Laugh Factory; discounted show tickets; 2 bottles of water per day; local/toll-free calls

Narrow your results

- Show Accessible Rooms
- Show Smoking Rooms

Bed Types

- 1 Bed
- 2 Beds

Room Types

- Guest rooms
- Suite

Pay with Points & Money 1

Rate Types


- Pay with Points
- Featured Rates
- Packages and Promotions
- AAA
- AARP
- Senior
- Government / Military
- Travel Agent

[Have a special code?](#)

USD - American Dollars ▼

1 KING BED ROOM - CLUB TOWER

Deluxe room near conference center with oversized desk. Our South...




Quick Look

Rate plan	Price per night (USD)	
	Plus \$37.00 USD resort charge per night, plus tax	
FLEXIBLE RATE	\$139	Select ▶
<small>Change or cancel up to 2 days before arrival. Room only.</small>		
HONORS DISCOUNT SEMI-FLEX	\$139 \$126	Select ▶
<small>Change or cancel up to 4 days before arrival. Pay when you stay. ...</small>		
HONORS DISCOUNT	\$139 \$132	Select ▶
<small>Change or cancel up to 2 days before arrival. Pay when you stay. ...</small>		
Pay with Points & Money		
Essential Extras	\$163	Select ▶
<small>Get more with daily breakfast, premium WiFi, and late checkout ...</small>		

[More prices from \\$95](#)

1 KING DELUXE - PARADISE TOWER

Deluxe room in the heart of the entertainment action. Our...



Quick Look

Rate plan	Price per night (USD)	
	Plus \$37.00 USD resort charge per night, plus tax	
FLEXIBLE RATE	\$149	Select ▶
<small>Change or cancel up to 2 days before arrival. Room only.</small>		
HONORS DISCOUNT SEMI-FLEX	\$149 \$135	Select ▶
<small>Change or cancel up to 4 days before arrival. Pay when you stay. ...</small>		

39. For the first time, the consumer was provided with a statement about the resort fee in a grey box at the top of the second page that stated: “Daily Resort Charge will be added to the room rate and includes: Internet access; fitness center access; valet/self parking; buy 1-get 1 free cocktail, beer or wine in Oakville Steakhouse 5pm to 7pm; 2 for 1 at Laugh Factory; discounted show tickets; 2 bottles of water per day; local/toll-free calls[.]”

40. Elsewhere on the second page lay another inconspicuous disclosure – not provided in close proximity to the statement set forth above that read: “Price per night (USD) **Plus \$37.00 USD** resort charge per night, plus tax[.]”
41. Both statements regarding the resort fee were less prominent (e.g., in smaller font and/or lighter colored font) than the room rate, which still did not include the resort fee.
42. If the consumer clicked on the green “Select” button next to any room rate that was not presented as a Hilton “Honors Discount” room rate, on or before June 28, 2019, the consumer was directed to the third page in the booking process, which appeared as follows.

[Remainder of Page Intentionally Blank]



Tropicana Las Vegas - a DoubleTree by Hilton Hotel

Step 3 of 5

3801 Las Vegas Blvd South, Las Vegas, Nevada, 89109, USA +1-702-739-2222

[Hotel Details](#) | [Change hotel](#)

Reservation Summary

16 Aug 2019 - 17 Aug 2019, 1 room for 1 adult [Change](#)1 KING BED ROOM - CLUB TOWER [FLEXIBLE RATE](#), \$139 per night [Change](#)We respect your privacy. See our [Global Privacy Statement](#).

Guest Information (Required)

First name:	<input type="text"/>
Last name:	<input type="text"/>
Phone:	<input type="text"/>
Email:	<input type="text"/>
Address type:	<input type="text" value="Home"/>
Country/Region:	<input type="text" value="USA"/>
Address:	<input type="text"/>
Address 2: (optional)	<input type="text"/>
Zip:	<input type="text"/>
	<i>Enter Zip for City and State</i>
City:	<input type="text"/>
State:	<input type="text" value="Select"/>

[Add additional guest names](#) (optional)[Add special requests](#) (optional)

Check in and choose your room before you arrive

Plus: get free WiFi* and earn free nights by joining Hilton Honors now for free

*In-Room Wi-Fi Internet access may not be complimentary at properties with a resort charge.

By clicking the Continue button I agree to the [Hilton Honors Program Terms and Conditions](#) and I agree to the collection, use, sharing and transfer of information as set out in the [Global Privacy Statement](#) and the [Data Protection Clause](#). I also agree to receive special offers and promotions from Hilton via email and direct mail. I understand that I can unsubscribe from offers and promotions by changing my subscription preferences in my Hilton Honors profile.

<input type="checkbox"/>	I'm not a robot	
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[Continue](#)

43. The third page in the booking process contained a “Reservation Summary” section at the top, which again provides the room rate exclusive of the resort fee. The Reservation Summary makes no mention that a resort fee would be added onto this rate. The consumer is then required to complete the “Guest Information” section in order to proceed with the booking process. The consumer cannot continue onto the next page in the booking process without completing this required information in the Guest Information section.
44. If the consumer clicked on the green “Select” button next to a room rate presented as a Hilton “Honors Discount” room rate on page two of the booking process, on or before June 28, 2019, the consumer was directed to a slightly different page in the booking process, which appeared as follows and encouraged the consumer to sign in to his or her Hilton Honors account:

You chose a Hilton Honors rate

Join Hilton Honors for this exclusive price.

It's fast, free and easy.

[Join While You Book ▶](#)

As a Hilton Honors member, you'll receive:

- ✔ Lowest price anywhere
- ✔ Free Wi-Fi*
- ✔ Digital check-in
- ✔ Points toward free nights

*Standard Wi-Fi is free. Premium has a fee. Not free at properties with resort charges.

or

[Sign in to your account](#)[Choose a different rate](#)

Need Help? Online Reservation Assistance (toll free) +1-855-271-3617 [Customer Support](#)

[Hilton Honors Discount Terms & Conditions](#) | [Global Privacy Statement](#) | [Cookies Statement](#) | [Site Usage Agreement](#) | [AdChoices](#)

45. Notably, on both of the above pages, Defendant advertised its standard wi-fi as “free” or “complimentary” for members of its Hilton Honors rewards program, while noting that such service may not be complimentary “at properties with a resort charge.”
46. Once the consumer invested the time it takes to complete the Guest Information requested on page three, on or before June 28, 2019, the consumer was required to click on the green “Continue” button to proceed to the fourth and final page of the booking process. The fourth page provides the following information.

[Remainder of Page Intentionally Blank]

[Sign In](#) | [Join](#) |

DOUBLETREE
by Hilton™

[Tropicana Las Vegas - a DoubleTree by Hilton Hotel](#) [®]

3801 Las Vegas Blvd South, Las Vegas, Nevada, 89109, USA +1-702-739-2222

[Hotel Details](#) [←] | [Change hotel](#)

Step 4 of 5

Reservation Summary:

16 Aug 2019 - 17 Aug 2019
1 room, 1 adult
1 night

[Change](#)

Jake Brennan
jake.brennan@nebraska.gov

[Change](#)

Price Details (USD)

1 KING BED ROOM - CLUB TOWER

FLEXIBLE RATE [Change](#)

Price: \$139.00

Resort charge: \$37.00

Taxes: \$23.55

Total for stay: **\$199.55**

Optional services for an additional charge

Self parking: Complimentary

Valet parking: Complimentary

Payment Information

All fields are required unless otherwise indicated.

Card number:

Expiration: /

Guarantee and Cancellation Policy

This reservation requires a credit card deposit of \$199.55 USD which will be charged to your card. If you wish to cancel, please do so 48 hours prior to arrival to avoid cancellation penalties.

If you use a debit/credit card to check in, a hold may be placed on your card account for the full anticipated amount to be owed to the hotel, including estimated incidentals, through your date of check-out and such hold may not be released for 72 hours from the date of check-out or longer at the discretion of your card issuer.

Rules & Restrictions

Taxes
13.38 % per room per night

Resort charge:
\$37.00 USD per room per night

At check in, the front desk will verify your check-out date. Rates quoted are based on check-in date and length of stay. Should you choose to depart early, price is subject to change.

We reserve the right to cancel or modify reservations where it appears that a customer has engaged in fraudulent or inappropriate activity or under other circumstances where it appears that the reservations contain or resulted from a mistake or error.

Totals listed here are estimated based on current taxes and exchange rates (if applicable) and do not include additional fees/charges that may be incurred during your stay.

Daily Resort Charge will be added to the room rate and includes: Internet access; fitness center access; valet/self parking; buy 1-get 1 free cocktail, beer or wine in Oakville Steakhouse 5pm to 7pm; 2 for 1 at Laugh Factory; discounted show tickets; 2 bottles of water per day, local/toll-free calls

I have read and accept the Rules and Restrictions and [Site Usage Agreement](#)

[Book Reservation](#) [▶]

[Need Help? Online Reservation Assistance \(toll free\) +1-855-271-3617 \[Customer Support\]\(#\)](#)

[Hilton Honors Discount Terms & Conditions](#) | [Global Privacy Statement](#) [®] | [Cookies Statement](#) [®] | [Site Usage Agreement](#) [®] | [Ad Choices](#) [▶]

Chat now

Feedback

47. On this page, and for the first time, Defendant lists the resort fee in the same place and in the same font as the nightly room rate, thereby providing the consumer with the true nightly cost for a room at the Tropicana Las Vegas. The consumer is then prompted to provide

payment information in order to pay the total price, including the resort fee, and complete the booking process.

48. After June 28, 2019, and just prior to the filing of this Complaint by Plaintiff, Defendant changed its website – but not the prominence of its resort fee disclosures. Now, after the consumer clicks the green “Book a Room” button on the search results page, he or she is directed to a second page that appears, in part, as follows.

The screenshot displays the Hilton website's 'Select a Room' interface. At the top left is the Hilton logo with 'HILTON HONORS' underneath. The page is titled 'Step 1 of 3 Select a Room'. Below this, a section 'Your stay includes' lists amenities: On-site restaurant, Free parking, Outdoor pool, Fitness center, and Business center. The 'Room filters' section shows 'All' selected, with options for 1 bed, 2 beds, and Suite. An 'Accessible rooms' toggle is set to 'Hidden'. A prominent disclosure states: 'Daily Resort Charge will be added to the room rate and includes: Internet access; fitness center access; valet/self parking; buy 1-get 1 free cocktail, beer or wine in Oakville Steakhouse 5pm to 7pm; 2 for 1 at Laugh Factory; discounted show tickets; 2 bottles of water per day; local/toll-free calls'. Below this, it says 'We found 13 rooms for you' and 'Avg/night in \$USD'. A grid of six room options is shown, each with a photo, title, and price:

Room Type	Price (Book From)	Resort Fee
1 King Bed Room - Club Tower	\$95	Plus \$37.00 USD resort charge per night, plus tax
1 King Deluxe Plus-oversized Room-club Twr	\$102	Plus \$37.00 USD resort charge per night, plus tax
1 King Deluxe - Paradise Tower	\$102	Plus \$37.00 USD resort charge per night, plus tax
1 King Deluxe Smoking - Paradise Tower	\$102	Plus \$37.00 USD resort charge per night, plus tax
2 Queen Beds Room - Club Tower	\$109	Plus \$37.00 USD resort charge per night, plus tax
1 King City View - Paradise Tower	\$115	Plus \$37.00 USD resort charge per night, plus tax

On the right side of the page, there is a large image of a hotel room and a card for 'Tropicana Las Vegas - a DoubleTree by Hilton Hotel' with dates '16 Aug - 17 Aug 2019 (1 night)' and '1 room for 1 adult'.

49. Once again, Defendant attempts to disclose the existence of its “daily resort charge” through a statement appearing in a blue box at the top of the page and again with smaller text appearing directly below the blue “Book From” button.
50. Notably, on this new second page, Defendant claims this particular property offers “Free Parking” amongst the “**Your stay includes**” disclosures above, but later lumps “valet/self parking” into its resort fee description in an apparent attempt to justify the \$37.00 fee. This is also misleading and confusing to consumers.
51. If the consumer clicks on any blue “Book From” button, the consumer will be directed to the third page in the revised booking process, which appears as follows.

[Remainder of Page Intentionally Blank]

Step 2 of 3

Select a Rate

Daily Resort Charge will be added to the room rate and includes: Internet access; fitness center access; valet/self parking; buy 1-get 1 free cocktail, beer or wine in Oakville Steakhouse 5pm to 7pm; 2 for 1 at Laugh Factory; discounted show tickets; 2 bottles of water per day; local/toll-free calls

Avg/night in \$USD ▼

Room only

FLEXIBLE RATE

Change or cancel up to 2 days before arrival. Room only.

\$159

Book

Honors Discount

\$159 **\$151**

Book

Plus \$37.00 USD resort charge per night, plus tax

SEMI-FLEX

Change or cancel up to 4 days before arrival. Pay when you stay.

\$152

Book

Honors Discount

\$152 **\$145**

Book

Plus \$37.00 USD resort charge per night, plus tax

ADVANCE PURCHASE

No cancellations. Pay now.

\$111

Book

Honors Discount

\$111 **\$109**

Book

Plus \$37.00 USD resort charge per night, plus tax

⊕ Add special codes

AAA, AARP, group codes, senior discount and more.

Make it a package deal

BREAKFAST INCLUDED

Change or cancel up to 2 days before arrival. Breakfast included for each registered adult and children, age 5 or under, when accompanied by adult diner.

\$178

Book

Plus \$37.00 USD resort charge per night, plus tax

2X POINTS

Change or cancel up to 2 days before arrival. Earn Double Hilton Honors Points. Pay when you stay.

\$168

Book

Plus \$37.00 USD resort charge per night, plus tax

Essential Extras

Get more with daily breakfast, premium WiFi, and late checkout when available. Flexible cancel/change policy.

\$183

Book

Plus \$37.00 USD resort charge per night, plus tax

BREAKFAST & WIFI

Recharge with daily breakfast and premium wi-fi. Includes breakfast for 2 adults and 2 kids 12 and under each night of stay. Premium wi-fi allows you to get work done faster, upload more pictures, stream hd movies and enjoy more online gaming.

\$187

Book

Plus \$37.00 USD resort charge per night, plus tax

CELEBRATION PACKAGE

Kick off your celebration with sparkling wine, breakfast for two and late checkout at 2pm, when available. Valid for daily breakfast for two adults at designated restaurant. A 25 usd, or local currency equivalent, on-property credit may be provided in lieu of sparkling wine.

\$203

Book

Plus \$37.00 USD resort charge per night, plus tax

How can we help?

+1-866-568-0896

Call us, it's toll-free.

Customer support

Online reservation assistance



Tropicana Las Vegas - a DoubleTree by Hilton Hotel

16 Aug - 17 Aug 2019 (1 night)
1 room for 1 adult

- 2 Queen Beds Room - Club Tower
- Select a Rate
- Payment and Guest Details

Feedback

[Hilton Honors Discount terms and conditions](#)

[Global privacy statement](#)

[Data rights request](#)


[Cookies statement](#)

[Site usage agreement](#)

[Ad Choices](#)

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52. If the consumer clicks on the “Book” button underneath any room rate that is not presented as a Hilton “Honors Discount” room rate, the consumer will be directed to the fourth page in the revised booking process, which appears as follows.


Sign In | Join

Step 3 of 3

Payment and Guest Details

Total for stay **\$222.22**

[Show price details](#)

Total room charge	\$159.00
Total fees	\$37.00
Total taxes	\$26.22

All fields are required unless marked optional.

Payment

Card number

Month Year

Guest information

First Name

Last Name

Email

Phone

Country

Address

Address 2 Optional

Zip

City

State

[Add guest names](#)

FREE WIFI* + DIGITAL CHECK-IN + OTHER EXCLUSIVE MEMBER BENEFITS

Instantly join Hilton Honors and enjoy the perks with each stay, subject to the [Hilton Honors program terms and conditions](#).

Yes, I want to join Hilton Honors now.

Special requests

Traveling with a pet, service animal, etc.

[Add special requests](#)

View optional services

Guarantee and Cancellation Policy


This reservation requires a credit card deposit of \$222.22 USD which will be charged to your card. If you wish to cancel, please do so 48 hours prior to arrival to avoid cancellation penalties.

By clicking "Book Reservation," I agree to the [Rules and Restrictions](#), [Site Usage Agreement](#), and acknowledge that Hilton will collect, use, share and transfer my information as set out in [Hilton's Global Privacy Statement](#).

I also agree to the [Hilton Honors Program Terms and Conditions](#) and the [Data Protection Clause](#).

Book Reservation

*In-Room WiFi Internet access may not be complimentary at properties with a resort charge.



Tropicana Las Vegas - a DoubleTree by Hilton Hotel

16 Aug – 17 Aug 2019 (1 night)
1 room for 1 adult

- 2 Queen Beds Room - Club Tower
- FLEXIBLE RATE
- Payment and Guest Details

53. If the consumer clicks on the “Book” button underneath a room rate presented as Hilton “Honors Discount” room rate on page three of the revised booking process, the consumer is directed to a slightly different page in the booking process, which encourages the consumer to sign in to his or her Hilton Honors account.

Hilton Sign In | Join

Step 3 of 3

Payment and Guest Details

Total for stay	\$213.21
Show price details	
Total room charge	\$191.05
Total fees	\$37.00
Total taxes	\$25.16

This is a members-only rate. Join Hilton Honors (for free) on this page, [sign in](#), or choose a different rate.

All fields are required unless marked optional.

Payment

Card number

Month Year

Guest Information

First Name

Last Name

Email

Phone

Country

Address

Address 2

Zip

City

State

[+ Add guest names](#)

JOIN HILTON HONORS TO GET THE EXCLUSIVE MEMBER RATE

It's free and easy. All we need from you is a password.

Password

- At least 8 characters
- One uppercase letter
- One lowercase letter
- One number (0-9) or one special character

Confirm Password

Special requests

Traveling with a pet, service animal, etc.

[+ Add special requests](#)

View optional services

Guarantee and Cancellation Policy
This reservation requires a credit card deposit of \$213.21 USD which will be charged to your card. If you wish to cancel, please do so 48 hours prior to arrival to avoid cancellation penalties.

By clicking "Book Reservation," I agree to the [Rules and Restrictions](#), [Site Usage Agreement](#), and acknowledge that Hilton will collect, use, share and transfer my information as set out in [Hilton's Global Privacy Statement](#).

I also agree to the [Hilton Honors Program Terms and Conditions](#) and the [Data Protection Clause](#).

Book Reservation

Feedback

How can we help?
1-866-568-0896 Call us, it's toll-free.
Customer support Online reservation assistance

[Hilton Honors Discount Terms and Conditions](#)
[Global Privacy Statement](#)
[Data Usage Agreement](#)
[Cancellation Statement](#)
[SML/ARL Agreement](#)
[A&C Terms](#)
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54. At the top of this fourth page, Defendant finally presents the consumer with a “**Total for Stay**” disclosure that, for the first time, lists the resort fee in the same place and in the same font as the nightly room rate.
55. Consumers conducting a search for room rates at any of Defendant’s other resort properties, including but not limited to; Hilton Hawaiian Village, Embassy Suites Lake Buena Vista, Hilton Condado Plaza Puerto Rico, Hilton Daytona Beach Resort, Hilton El San Juan Puerto Rico, Hilton Orlando Lake Buena Vista, Hilton Clearwater Beach, and Hilton Orlando Convention Center, would encounter a nearly identical reservation flow on Defendant’s website and similarly inconspicuous disclosures during the booking process regarding Defendant’s resort fees.

DEFENDANT PROFITTED FROM THIS PRACTICE

56. These additional resort fees, which can amount to as much as \$45 per night at Defendant’s properties, are little more than an effort by Defendant to increase revenue and therefore profits without increasing its nightly room rate.
57. Defendant is keenly aware that if one of its properties increases its nightly room rate, then consumers are more likely to consider similar, but cheaper, hotels in the same geographic area.
58. Defendant is liable for this practice, regardless of whether the property charging the resort fee was owned, managed, or franchised by Defendant, as Defendant’s own policies strictly control which properties may charge resort fees, under what circumstances, and in what amounts.

59. Defendant's policies and franchise agreements also strictly control the production, approval and distribution of all advertising material, including material with applicable room rates.

DEFENDANT IS ON NOTICE THAT ITS PRICING PRACTICES ARE DECEPTIVE

60. Defendant is on notice that its practice of separating out the resort fee from the nightly room rate is deceptive and that its disclosures are insufficient.

61. In fact, this practice of initially advertising only part of a price and then later revealing other charges as the consumer completes the buying process has been labeled "drip pricing" by the Federal Trade Commission ("FTC").

62. In November 2012, the FTC warned the hotel industry that drip pricing as it pertains to the practice of charging resort fees may violate federal consumer protection law by misrepresenting the price consumers can expect to pay for their hotel rooms.¹ The FTC specifically warned the hotels that the largest, most prominent price for a hotel room should include the resort fee, and should be provided to the consumer up front, and not later in the checkout process.

63. While Defendant never received one of the FTC's letters directly, Defendant was aware of the FTC warning letters and the FTC's statements contained therein.

64. Notwithstanding those warnings, Defendant continued to expand its resort fees program.

65. Not surprisingly, Defendant received a number of consumer complaints regarding its resort fee disclosures and the lack thereof. These complaints came directly from consumers, from

¹ Copies of the warning letters sent by the FTC are available at <https://www.ftc.gov/about-ftc/foia/frequently-requested-records/hotel-pricingresort-fee>.

regulators and other consumer advocates, and from the credit card companies in the form of payment disputes.

66. Other consumers complained simply about the practice of charging resort fees in general.

67. One consumer, in a complaint filed with the FTC, states:

“I have tried disputing a daily \$20 "RESORT FEE" total of \$40 that this hotel charged me above my quoted price made during reservation. I have tried to communicate that this fee was not spelled out to me during my online booking process (during which I was comparing prices to other hotels) to Hilton corporate to no avail. I even tried to file a dispute with my credit card company and they told me they couldn't help because the additional fee was printed on my FINAL invoice. I don't understand how a company can treat consumers this way...”

68. Other consumers came right out and told the FTC that Defendant’s practices were both deceptive and unfair:

“They said that everyone was charged this fee regardless if they wanted to use the pool or not. They brought out a manager who justified the fee saying "everyone does it." So I was forced to pay \$20 to get my key even though I paid \$400.79 up front for a one night stay. Seems like they could have just advertised the price being \$420.79 instead of charging two separate rates. Anything else would be deceptive and unfair in my book.”

69. Certain consumers complained not only to the FTC but to Hilton directly, such as the consumer who made the following statement in his complaint to the FTC:

“I wrote a letter to complain to Hilton CEO Chris Nasseta which received no response. I called to inquire status and sent several emails.”

70. These inconsistent disclosures and instances of consumer confusion were the direct and foreseeable result of Defendant’s decision to unbundle its resort fees from its nightly room rates.

71. Since issuing its warning letters in 2012, the FTC’s Bureau of Economics issued a report in 2017 confirming its concerns about the practice of drip pricing. That report concluded:

In sum, the literature suggests that separating mandatory resort fees from posted room rates without first disclosing the total price is likely to harm consumers by artificially increasing the search costs and the cognitive costs of finding and booking hotel accommodations. Unless the total price is disclosed up front, separating resort fees from the room rate is unlikely to result in benefits that offset the likely harm to consumers.²

72. Notwithstanding the FTC’s warnings and mounting complaints from consumers, Defendant continues to advertise room prices that do not include its resort fees, both on its own website and elsewhere.

73. Consumers will continue to be misled by Defendant’s advertising in the absence of an injunction from this Court.

COUNT I:
VIOLATIONS OF THE CONSUMER PROTECTION ACT,
NEB. REV. STAT. § 59-1601 ET SEQ.

74. The State of Nebraska re-alleges the facts above and incorporates them herein by reference.

75. The Consumer Protection Act, Neb. Rev. Stat. § 59-1602, prohibits “[u]nfair methods of competition and unfair or deceptive acts or practices in the conduct of any trade or commerce.”

76. An act or a practice is deceptive or unfair if the practice possessed the tendency or capacity to mislead, or created the likelihood of deception.

² Mary W. Sullivan, Fed. Trade Comm’n, Economic Analysis of Hotel Resort Fees 37 (Jan. 2017). The report and the FTC’s summary can be viewed at the following link: <https://www.ftc.gov/reports/economic-analysis-hotel-resort-fees>.

77. Defendant engaged in unfair or deceptive acts or practices in the conduct of trade or commerce, in violation of Neb. Rev. Stat. § 59-1602 by, without limitation:
- a. Advertising lodging without the intent to sell it as advertised, by failing to include Defendant's nightly resort fees in Defendant's advertisements and in the disclosures made to consumers by telephone during the reservation process;
 - b. Advertising and selling lodging and creating a likelihood of confusion or misunderstanding as to the following:
 - i. The actual nightly room rate;
 - ii. The existence of the resort fee;
 - iii. The purpose of the resort fee; and
 - iv. The amenities covered by the resort fee and their relative value;
 - c. Engaging in the practice of "drip pricing" by initially advertising only part of the true cost of lodging at a Hilton resort hotel and only later revealing the additional resort fees as the consumer completes the online booking process;
 - d. Failing to disclose the resort fee to consumers who make reservations for lodging at Defendant's hotels over the telephone;
 - e. Misrepresenting to consumers that the resort fee provides them with the valuable amenities of internet access and local and toll-free calls, when such amenities are routinely provided at no cost to the consumer or bundled into Defendant's room rates;
 - f. Misrepresenting to consumers that certain amenities such as "Wi-Fi" or parking are free or complimentary, while later including them as amenities for which the consumer is being charged the resort fee.

78. Defendant's actions constitute unfair or deceptive acts or practices in the conduct of any trade or commerce in violation of Neb. Rev. Stat. § 59-1602. Each and every advertisement, act of "price dripping," failure to disclose information, and misrepresentation to Nebraska consumers constitutes a separate and independent violation of the Nebraska Consumer Protection Act.

COUNTS II THROUGH V:
VIOLATIONS OF THE UNIFORM DECEPTIVE TRADE PRACTICES ACT,
NEB. REV. STAT. § 87-302(5), (10), AND (12) AND § 87-303.01

79. The State of Nebraska re-alleges the facts above and incorporates them herein by reference.

80. Section 87-302(a) of the Uniform Deceptive Trade Practice Act specifies multiple practices, which, when conducted in the course of business may constitute a deceptive trade practice.

81. Defendant is a "person" within the meaning of the Uniform Deceptive Trade Practices Act, Neb. Rev. Stat. § 87-301.

82. In the course of advertising and selling lodging at Defendant's hotels, Defendant engaged in deceptive and unconscionable acts or practices in the conduct of its business, in violation of Neb. Rev. Stat. §§ 87-302 and 87-303.01 by, without limitation:

- a. Advertising lodging without the intent to sell it as advertised, by failing to include Defendant's nightly resort fees in Defendant's advertisements and in the disclosures made to consumers by telephone during the reservation process;
- b. Representing that lodging at Defendant's hotels has characteristics and benefits that it does not have in violation of Neb. Rev. Stat. § 87-302(5);

- c. Advertising the price of lodging at Defendant's hotels in a manner calculated or tending to mislead, in violation of Neb. Rev. Stat. § 87-302(10), with respect to the following:
 - i. The actual nightly room rate;
 - ii. The existence of the resort fee;
 - iii. The purpose of the resort fee; and
 - iv. The amenities covered by the resort fee and their relative value;
- d. Making false or misleading statements of fact concerning the reasons for, existence of, or amounts of price reductions pertaining to lodging at Defendant's hotels in violation of Neb. Rev. Stat. § 87-302(12);
- e. Engaging in the practice of "drip pricing" by initially advertising only part of the true cost of lodging at a Hilton resort hotel and only later revealing the additional resort fees as the consumer completes the online booking process;
- f. Failing to disclose the resort fee to consumers who make reservations for lodging at Defendant's hotels over the telephone;
- g. Misrepresenting to consumers that the resort fee provides them with the valuable amenities of internet access and local and toll-free calls, when such amenities are routinely provided at no cost to the consumer or bundled into Defendant's room rates;
- h. Misrepresenting to consumers that certain amenities such as "Wi-Fi" or parking are free or complimentary, while later including them as amenities for which the consumer is being charged the resort fee.

83. As described above and without limitation, Defendant's actions in this complaint constitute deceptive and unconscionable trade practices in violation of Neb. Rev. Stat. §§ 87-302 and 87-303.01. Each and every advertisement, act of "price dripping," failure to disclose information, and misrepresentation to Nebraska consumers constitutes a separate and independent violation of the of the Uniform Deceptive Trade Practices Act.

PRAYER FOR RELIEF

WHEREFORE, the State respectfully requests this Court issue an order:

- (a) Permanently enjoining Defendant, its agents, employees, and all other persons and entities, corporate or otherwise, in active concert or participation with any of them, pursuant to Neb. Rev. Stat. §§ 59-1608 and 87-303.05, from engaging in conduct described in the Complaint to be in violation of the Consumer Protection Act and Uniform Deceptive Trade Practices Act;
- (b) Permanently enjoining Defendant, its agents, employees, and all other persons and entities, corporate or otherwise, in active concert or participation with any of them, pursuant to Neb. Rev. Stat. §§ 59-1608 and 87-303.05, from violating the Consumer Protection Act, Uniform Deceptive Trade Practices Act, and any amendments thereto;
- (c) Ordering the Defendant to pay restitution pursuant to Neb. Rev. Stat. §§ 59-1608(2) and 87-303.05(1), for amounts collected from Nebraska consumers in violation of the Consumer Protection Act and Uniform Deceptive Trade Practices Act;
- (d) Ordering the Defendant to pay the State a civil penalty in the amount of two thousand (\$2,000.00) dollars per violation, pursuant Neb. Rev. Stat. §§ 59-1614 and 87-303.11, for

each and every violation of the Consumer Protection Act and Uniform Deceptive Trade Practices Act;

- (e) Ordering the Defendant to pay the State's costs and attorneys fees in this matter, pursuant to Neb. Rev. Stat. §§ 59-1608 and 87-303(b); and
- (f) Granting such further relief as the Court may deem just and appropriate.

Respectfully submitted this 24th day of July, 2019.

BY: Douglas J. Peterson, No. #18146
Attorney General of Nebraska

BY: */s/ Meghan E. Stoppel*

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Counsel for Plaintiff

Certificate of Service

I hereby certify that on Wednesday, July 24, 2019 I provided a true and correct copy of the Amended Complaint to the following:

Hilton Dopco Inc service method: Certified Mail

Signature: /s/ Meghan Elizabeth Stoppel (Bar Number: 26290)