

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
NEW YORK

Kayla Montgomery, individually and on behalf of all others similarly
situated v. Peek Travel, Inc.

Montgomery v. Peek Travel, Inc. · No. 25-cv-1015 (AS) · Decided November 24, 2025

SUMMARY

The U.S. District Court for the Southern District of New York partially granted and partially denied Peek Travel, Inc.'s motion to dismiss a putative class action concerning allegedly undisclosed ticket fees. The court held that Montgomery had Article III standing to challenge fees charged for Museum of Ice Cream tickets and could assert class allegations involving other New York attractions. It dismissed claims for injunctive relief and damages tied to Color Factory ticket sales because those claims were released under a prior class-action settlement.

CASE DETAILS

COURT	United States District Court for the Southern District of New York
WRITING FOR THE COURT	Arun Subramanian
JURISDICTION	United States District Court for the Southern District of New York
DECIDED	November 24, 2025
DOCKET	25-cv-1015 (AS)
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff brought a putative class action alleging that Peek Travel unlawfully concealed ancillary ticket fees in violation of New York Arts & Cultural Affairs Law § 25.07(4) and New York General Business Law § 349. Defendant moved to dismiss under Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6), and moved to strike the class allegations based on standing and alleged conflicts among state laws.
STANDARD OF REVIEW	On a Rule 12(b)(1) motion, the court determines whether it has statutory or constitutional power to adjudicate the case and may consider evidence outside the pleadings. On a Rule 12(b)(6) motion, the complaint must plead sufficient factual matter, accepted as true, to state a facially plausible claim, with reasonable inferences drawn in the plaintiff's favor. Class allegations may be stricken at the pleading

stage where the named plaintiff lacks standing, but the court did not decide Rule 23 certification requirements.

PRECEDENTIAL VALUE

Unknown; district court opinion with no reported citation, and the supplied metadata lists precedential status as Unknown.

TOPICS

class actions motions to dismiss standing subject matter jurisdiction consumer protection

PRACTICE AREAS

civil procedure consumer protection class actions statutory interpretation

QUESTIONS PRESENTED

1. Whether Montgomery adequately alleged an injury in fact sufficient for Article III standing to challenge fees charged for Museum of Ice Cream tickets.
2. Whether Montgomery could assert class allegations concerning similar fee practices for other Peek-operated New York attractions even though she purchased only Museum of Ice Cream tickets.
3. Whether a prior class-action settlement released claims concerning Color Factory ticket purchases and barred those damages claims against Peek.
4. Whether alleged variations among state laws prevented Montgomery from representing a class of consumers residing nationwide who purchased tickets for attractions located in New York.

HOLDINGS

1. A plaintiff who alleges that she paid an unlawful fee in connection with a ticket purchase pleads an injury in fact sufficient for Article III standing, even where the alleged financial loss is small.
2. A named plaintiff may assert class claims concerning other products or venues when she personally suffered an injury from the defendant's challenged conduct and the other conduct implicates the same set of concerns.
3. Claims for damages tied to Color Factory ticket purchases were released by the prior settlement and must be dismissed because Peek fell within the settlement's released parties as a sales agent for the Color Factory.
4. At the pleading stage, alleged variations among the laws of class members' states of residence did not justify striking the class allegations because the proposed class concerned fees charged for attractions located in New York and New York law would apply to the claims.

KEY QUOTATIONS

“Even a small financial loss is an injury for purposes of Article III standing.” (Discussion § I.A)

“A named plaintiff can “assert claims on behalf of other class members if ‘[s]he plausibly alleges (1) that [s]he personally has suffered some actual injury as a result of the putatively illegal conduct of the defendant,

and (2) that such conduct implicates the same set of concerns as the conduct alleged to have caused injury to other members of the putative class by the same defendant[.]’” (Discussion § I.B)

“The Court concludes that there is no conflict between state laws because New York law would apply to the entire class.” (Discussion § III)

FACTUAL BACKGROUND

In January 2023, Montgomery purchased four Museum of Ice Cream tickets through a Peek-operated online ticketing system and paid \$44.40 in taxes and fees in addition to the \$144 ticket price. She alleged that \$31.62 consisted of ancillary fees that were not clearly disclosed during the purchasing process and that the fee breakdown appeared only late in checkout or through hover-over icons. She sought damages and class relief for consumers who purchased tickets through Peek for New York attractions, including the Color Factory, but did not oppose dismissal of her injunctive-relief claims.

PROCEDURAL HISTORY

Montgomery filed the action in February 2025. Peek moved to dismiss, arguing that some claims were released by a prior class-action settlement, that Montgomery lacked Article III standing, and that she could not represent the proposed nationwide class. The court granted the motion in part and denied it in part, dismissing injunctive-relief claims and damages claims tied to Color Factory tickets, while allowing the remaining claims and class allegations to proceed at the pleading stage.

DISPOSITION

other

REMAND INSTRUCTIONS

No remand. The court dismissed claims for injunctive relief and damages tied to Color Factory ticket sales, lifted the discovery stay as to attractions mentioned in the complaint, continued the stay for other attractions pending class certification, and ordered the parties to submit a joint schedule for class-certification and summary-judgment motions within 14 days.

CASES CITED

- Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009)
- Makarova v. United States, 201 F.3d 110, 113 (2d Cir. 2000)
- Carter v. HealthPort Techs., LLC, 822 F.3d 47, 56 (2d Cir. 2016)
- Estate of Close v. Cigna Health & Life Ins. Corp., 2023 WL 8846562, at *2 (S.D.N.Y. Dec. 21, 2023)
- Austin v. Town of Farmington, 826 F.3d 622, 625 (2d Cir. 2016)
- Singh v. United States Citizenship & Immigration Services, 878 F.3d 441, 445 (2d Cir. 2017), as amended (Jan. 9, 2018)
- John v. Whole Foods Market Group, Inc., 858 F.3d 732, 735 (2d Cir. 2017)

- Nat. Res. Def. Council, Inc. v. U.S. Food & Drug Admin., 710 F.3d 71, 85 (2d Cir. 2013), as amended (Mar. 21, 2013)
- Curanaj v. Tao Grp. Operating LLC, 2024 WL 5456192 (N.Y. Sup. Ct. July 25, 2024)
- ASARCO Inc. v. Kadish, 490 U.S. 605, 617 (1989)
- US Bank National Association v. Nelson, 163 N.E.3d 49, 51 (N.Y. 2020) (Wilson, J., concurring)
- Bensky v. Indyke, 743 F. Supp. 3d 586, 596 (S.D.N.Y. 2024)
- Barrows v. Becerra, 24 F.4th 116, 129 (2d Cir. 2022)
- NECA-IBEW Health & Welfare Fund v. Goldman Sachs & Co., 693 F.3d 145, 162, 165 (2d Cir. 2012)
- Gratz v. Bollinger, 539 U.S. 244, 262-66 (2003)
- In re Gaston & Snow, 243 F.3d 599, 607-08 (2d Cir. 2001)

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