

Whole Foods shoppers sue Amazon following end of free delivery for Prime members

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Amazon could be facing two legal challenges from shoppers who say the company misled them and violated state law when it ended free delivery from Whole Foods Market for Prime members.

Two groups of [shoppers](#) separately filed proposed class action lawsuits against the company in May and June, one accusing Amazon of breaching its contract by taking away a benefit of the Prime membership without lowering the subscription price or offering a refund, and the other arguing Amazon hid extra fees in order to "bamboozle" customers.

Amazon "pulled the rug out from its customers" in October 2021 when it ended an offer for free delivery for Prime members on Whole Foods orders over \$35, one lawsuit read. Since then, hundreds of thousands of shoppers paid for "a service that was unfairly terminated."

Since acquiring Whole Foods in 2017, Amazon had said under its ownership the [grocery store](#) would expand access to high-quality and affordable [food](#) for its customers, particularly Prime members who would receive "special savings and in-store benefits."

In February 2018, when Amazon first announced it would offer free two-hour delivery for Prime members on grocery orders over \$35, Whole Foods Market co-founder and CEO John Mackey said the two companies "have already lowered prices on many items, and this offering makes Prime customers' lives even easier."

That April, it increased the price of a Prime membership from \$99 to \$119 annually, the first increase since 2014, when it went up from \$79 to \$99.

Three years later, in September 2021, Amazon told shoppers through an email blast it was ending free delivery for Prime members, and tacking on a \$9.95 service fee for all grocery orders.

This May, two Prime shoppers from California sued Amazon in a [federal district court](#) in Seattle, accusing the ecommerce company of violating Washington's Consumer Protection Act when it stopped

offering the free grocery delivery.

The free drop-offs were a "key perk" of Amazon's Prime membership offerings, the lawsuit read. Amazon ended the benefit after it increased the price of Prime but without offering Prime members a refund or an easy way to cancel their subscription as a result of the change, the plaintiffs argue.

"Amazon has engaged in unfair business practices, breached its duty of good faith and deprived Prime members of the benefit of their bargain," the lawsuit read.

The lawsuit comes months after Amazon again raised the price of a Prime membership, this time from \$119 to \$139 annually, or from \$12.99 to \$14.99 monthly.

In both instances, Chief Financial Officer Brian Olsavsky told shareholders and consumers the extra cost was coming with extra benefits. In 2018, he said the price increase was a "natural consequence" of new perks, pointing specifically to free deliveries for Whole Foods orders over \$35. In February, he championed access to stream Thursday Night Football and "The Lord of the Rings: The Rings of Power," as well as the expansion of one-day shipping for some items.

"It's not a static program," he said on a call with investors. "We'll continue to add faster shipping, greater video and other features. ... We're pretty confident in the value proposition of our Prime offering."

This year, Olsavsky said the increased price would also bring in more funds to offset rising expenses related to inflation, transportation and wages.

Sales from subscription services, including Amazon Prime, increased

11% in the first three months of 2022, compared to the same time period the year before. That quarter, subscription sales totaled \$8.4 billion, up from \$8.1 billion at the start of 2021.

Another Prime member, also in California, sued Amazon separately Tuesday, accusing the company of misleading shoppers with ads that promised free delivery from Whole Foods as a perk of their Prime subscription.

Despite ads in print, on TV and displayed on Amazon's own website, the company tacks on a "hidden [delivery](#) fee" as customers move through the shopping process, the lawsuit alleges, referring to the \$9.95 service fee.

Amazon also automatically adds a \$5 tip on each order. That tip is optional but the text telling customers how to opt-out is small and hard to find, the lawsuit says.

The practice of initially advertising one price and then revealing service fees and other charges at the end of a transaction is called "drip pricing," according to the Federal Trade Commission.

Shoppers "would have wanted to know, as would any reasonable person, that [Amazon] charges a service fee in connection with grocery deliveries from Whole Foods Market," the lawsuit read. "And this information would have changed their and any reasonable customer's decision to purchase" from Whole Foods in the first place.

The class action lawsuits, both of which are filed in the U.S. District Court for Western Washington, could include thousands of Prime members.

Amazon and Whole Foods could not be reached for comment, nor could

the plaintiff who filed the most recent [lawsuit](#). The shoppers who sued in May declined to comment through their lawyer, Thiago Coelho from Wilshire Law Firm.

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