

IN THE CIRCUIT COURT OF THE CITY OF ST. LOUIS
STATE OF MISSOURI

STATE OF MISSOURI ex rel.)
Attorney General Andrew Bailey,)

And)

MISSOURI DEPARTMENT OF)
AGRICULTURE,)

Plaintiffs,)

vs.)

Case No.

Division:

DOLGENCORP, LLC, d/b/a)
DOLLAR GENERAL,)

Serve Registered Agent:)
CSC-LAWYERS INCORPORATING)
SERVICE COMPANY)
221 Bolivar Street)
Jefferson City, MO 65101,)

Defendant.)

PETITION FOR INJUNCTION, RESTITUTION,
CIVIL PENALTIES, AND OTHER RELIEF

INTRODUCTION

Missouri consumers, like many Americans across the country are paying more for food and necessary household items as a result of the high inflation of the last few years. In a recent Gallup poll, 61% of Americans report experiencing financial hardship due to inflation, with the cumulative

impact hitting households with an annual household income of less than \$40,000 especially hard.

Consumers are doing their best to make every dollar stretch as far as possible, flocking to discounters, including Dollar General. Rather than offering bargains or discounts, Dollar General is routinely overcharging Missouri consumers for every day staples and the necessities of life. Worse still, consumers are being deceived as to the prices they are actually paying for these items. Candles, toilet paper, lip balm, lemonade, tire foam and drink coolers all have one thing in common at Dollar General stores across the state of Missouri: the prices charged at the point of sale are frequently higher than the prices listed on the shelf.

In an extensive statewide investigation conducted by the Missouri Department of Agriculture and the Missouri Attorney General's Office, 92 of the 147 locations where investigations were conducted failed inspection. Price discrepancies ranged up to as much as \$6.50 per item, with an average overcharge of \$2.71 for the over 5,000 items price checked by investigators. This civil action seeks to hold Dollar General accountable for its unfair and deceptive pricing practices and ensure that Missouri consumers are treated fairly.

Plaintiff, the State of Missouri, ex rel. Andrew Bailey Attorney General ("Plaintiff") brings this Petition for Injunction, Restitution, Civil Penalties,

and Other Relief against Dolgencorp, LLC, (“Dolgencorp”), d/b/a Dollar General, (“Dollar General”), (“Defendant”), for violations of the Missouri Merchandising Practices Act. Upon information and belief, Plaintiff states as follows:

PARTIES

1. Andrew Bailey is the Attorney General of the State of Missouri and brings this action in his official capacity pursuant to Chapter 407, RSMo.

2. The Missouri Department of Agriculture through its Division of Weights, Measures, and Consumer Protections is tasked with verifying price accuracy of retail stores pursuant to Chapter 413.

3. Dolgencorp, LLC is a corporation organized under the laws of the State of Tennessee located at 100 Mission Ridge, Goodlettsville, TN, 37072. Defendant Dolgencorp advertised, solicited, sold, and offered to sell merchandise in Missouri under the trade name Dollar General. It can be served through its registered agent at: CSC-LAWYERS INCORPORATING SERVICE COMPANY, 221 Bolivar Street, Jefferson City, MO 65101.

4. At all times relevant to the facts alleged in this petition, Defendant Dolgencorp, doing business as Dollar General, has done and does business within the State of Missouri by, among other activities, advertising merchandise to be sold in its more than 600 retail stores within the State of

Missouri and by selling such merchandise in retail stores within Missouri.

5. Any acts, practices, methods, uses, solicitations or conduct of the Defendant alleged in this Petition include the acts, practices, methods, uses, solicitations or conduct of the Defendants' employees, agents, or other representatives acting under Defendants' direction, control, or authority.

JURISDICTION

6. This Court has subject matter jurisdiction pursuant to Article V, § 14 of the Missouri Constitution.

7. This Court has authority over this action pursuant to § 407.100, which allows the Attorney General to seek injunctive relief, penalties, and other relief in circuit court against persons who violate § 407.020.

8. This Court has personal jurisdiction over Defendants pursuant to the Missouri Merchandising Practices Act, §§ 407.010, RSMo, *et seq.*, and § 506.500, RSMo.

9. This court has authority over this action pursuant to § 407.100, which allows the Attorney General to seek injunctive relief, restitution, penalties, and other relief in circuit court against persons who violate § 407.020, RSMo.

VENUE

10. Venue is proper in this Court pursuant to § 407.100.7, RSMo, which provides that "any action under this section may be brought in the

county in which the defendant resides, in which the violation alleged to have been committed occurred, or in which the defendant has his principal place of business.”

11. Defendants have engaged in the acts, practices, methods, uses, solicitation and conduct described below that violate § 407.020, RSMo, in St. Louis City, Missouri, among other places. Thus venue is proper in this Court.

MERCHANDISING PRACTICES ACT

12. Section 407.020, RSMo provides in pertinent part:

The act, use or employment by any person of any deception, fraud, false pretense, false promise, misrepresentation, unfair practice or the concealment, suppression, or omission of any material fact in connection with the sale or advertisement of any merchandise in trade or commerce or the solicitation of any funds for any charitable purpose, as defined in section 407.453, in or from the state of Missouri, is declared to be an unlawful practice... Any act, use or employment declared unlawful by this subsection violates this subsection whether committed before, during or after the sale, advertisement, or solicitation.

13. Section 407.100.1, RSMo states:

Whenever it appears to the attorney general that a person has engaged in, is engaging in, or is about to engage in any method, act, use, practice or solicitation, or any combination thereof, declared to be unlawful by this chapter, the attorney general may seek and obtain, in an action in a circuit court, an injunction prohibiting such person from continuing such methods, acts, uses, practices, or solicitations, or any combination thereof, or engaging therein, or doing anything in furtherance thereof.

14. “Person” is defined as “any natural person or his legal representative, partnership, firm, for-profit or not-for-profit corporation, whether domestic or foreign, company, foundation, trust, business entity or association, and any agent, employee, salesman, partner, officer, director, member, stockholder, associate, trustee or cestui que trust thereof.” § 407.010(5), RSMo.

15. “Merchandise” is defined as “any objects, wares, goods, commodities, intangibles, real estate, or services.” § 407.010(4), RSMo.

16. “Trade” or “commerce” is defined as “the advertising, offering for sale, sale, or distribution, or any combination thereof, of any services and any property, tangible or intangible, real, personal, or mixed, and any other article, commodity, or thing of value wherever situated. The terms “trade” and “commerce” include any trade or commerce directly or indirectly affecting the people of this state.” § 407.010(7), RSMo.

17. Defendants have advertised, marketed, and sold merchandise in trade or commerce within the meaning of § 407.010, RSMo.

18. Pursuant to § 407.145, RSMo, the Attorney General has promulgated rules explaining and defining terms in §§ 407.010-407.145 of the Merchandising Practices Act. The rules relevant to the Merchandising Practices Act allegations herein include the provisions of 15 CSR 60.

19. “Seller”, as used in Chapter 407 and the rules found at 15 CSR 60-7.010 et seq., “means any person who offers, advertises or sells any product for sale...in this state” and it includes “any officer, agent, employee, salesperson or representative of a seller.”

ALLEGATIONS OF FACT

20. Plaintiff incorporates all allegations as stated above.

21. Defendant has been, at all times relevant to this action, engaged in the business of selling consumer goods in the State of Missouri, including in St. Louis City.

22. Defendant offers sales of food and household goods at over 600 retail locations throughout Missouri using advertisements on their shelves to display the price of goods.

23. Defendant engages in trade or commerce that directly or indirectly affects Missouri residents and others as defined by § 407.010(7).

24. When the goods are scanned for purchase at the register, the price that is charged to the consumer is consistently different than the price advertised on the shelf.

25. Missouri consumers are damaged when they pay prices higher than the advertised price, whether they realize the pricing difference at the point of sale or not.

26. Over the course of the past 18 months, Plaintiff inspected the

pricing practice at multiple retail stores owned or operated by Defendant in Missouri. In the course of such inspections, Plaintiff randomly selected items listed for purchase throughout the store to verify a product's listed prices in comparison with the Point of Sale scanned price.

27. Plaintiff's inspection of hundreds of items at Dollar General's retail stores revealed that its stores had numerous pricing discrepancies in which the price of merchandise at checkout or point of sale was higher than the price that had been advertised for the merchandise on the shelf or on a display. Dollar General's representations of prices on its shelves and displays were false and misleading as to the prices then in effect and available to consumers.

28. On April 17, 2023, investigators with the Missouri Department of Agriculture Weights, Measures and the Missouri Attorney General's Office, visited the Dollar General Store #24045 located at 7700 S. Broadway, St. Louis, MO 63111.

29. The inspection was conducted pursuant to the ongoing investigation into alleged pricing discrepancies at Dollar General stores. The inspection was performed according to the Department of Agriculture's rules and regulations and was conducted in an unbiased manner, where 50 items were randomly selected throughout the store to verify a product's listed prices in comparison with the Point of Sale scanned price.

30. According to the Inspectors with the Department of Agriculture, if more than two items were in violation (inconsistent pricing), the store fails the inspection.

31. Four out of 50 items were in violation, giving the store an 8% violation rate. The items and prices that were in violation are as follows:

Number	Item	Listed Price	Scanned Price
1	Tostitos Scoops 10oz	\$4.60	\$4.00
2	Sun Chips Cheddar 7oz	\$3.75	\$4.00
3	Gatorade Frost Glacier Freeze 28oz	\$1.45	\$1.70
4	Sterilite Latching Box 106Q/100L	\$16.50	\$18.00

32. On April 17, 2023, investigators with the Missouri Department of Agriculture Weights, Measures and the Missouri Attorney General's Office, visited the Dollar General Store #10880 located at 4488 Lemay Ferry Rd, St. Louis, MO 63111.

33. The inspection was conducted pursuant to the ongoing investigation into alleged pricing discrepancies at Dollar General stores. The inspection was performed according to the Department of Agriculture's rules and regulations and was conducted in an unbiased manner, where 50 items were randomly selected throughout the store to verify a product's listed prices in comparison with the Point of Sale scanned price.

34. According to the Inspectors with the Department of Agriculture,

if more than two items were in violation (inconsistent pricing), the store fails the inspection.

35. Six out of 50 items were in violation, giving the store a 12% violation rate. The items and prices that were in violation are as follows:

Number	Item	Listed Price	Scanned Price
1	Hershey's Milk Chocolate with Almonds, 4 full size bars	\$4.35	\$4.50
2	BodyArmor Tropical Punch 16oz	\$1.40	\$1.45
3	Vigo Saffron Yellow Rice 9oz	\$1.65	\$1.00
4	Hanes 6 Men's Crew Socks pairs with one free pair	\$7.50	\$7.75
5	Comfort Bay Fast Dry Bath Towel	No price shown	\$6.50
6	Connect 4 Card Game	No price shown	\$2.75

36. On April 18, 2023, investigators with the Missouri Department of Agriculture Weights, Measures and the Missouri Attorney General's Office, visited the Dollar General Store #13375 located at 5501 E. Truman Rd., Kansas City, Missouri 64127.

37. The inspection was conducted pursuant to the ongoing investigation into alleged pricing discrepancies at Dollar General stores. The inspection was performed according to the Department of Agriculture's rules and regulations and was conducted in an unbiased manner, where 50 items were randomly selected throughout the store to verify a product's listed prices in comparison with the Point of Sale scanned price.

38. According to the Inspectors with the Department of Agriculture, if more than two items were in violation (inconsistent pricing), the store fails the inspection.

39. Six out of 50 items were in violation, giving the store a 12% violation rate. The items and prices that were in violation are as follows:

Number	Item	Listed Price	Scanned Price
1	Suddenly Pasta Salad, twin pack, 15 oz.	\$3.65	\$4.00
2	True Living scented candle, twilight forest, 18 oz.	\$5.00	\$6.00
3	JB Weld, Clear Weld, fluid 0.47 oz.	\$5.00	\$6.55
4	True Living, Meal Prep Round Storage containers, 5 count	\$4.25	\$4.50
5	Temptations, Meaty Bites-Salmon flavor, 1.5 oz.	\$2.75	\$2.95
6	ChapStick total hydration, soothing vanilla, 12 oz.	\$3.00	\$3.25

40. Prices, availability and the terms of sale of merchandise offered by Dollar General are likely to be considered important by consumers when contemplating making a purchase from Dollar General and are likely to cause the consumer, in whole or in part, to make a particular purchase of Dollar General's merchandise.

41. Dollar General falsely advertised merchandise for sale at a reduced price from its current or customary price.

42. Dollar General engages in or has engaged in and is likely to engage in unfair and deceptive practices which result in injury, loss or damage to consumers.

VIOLATIONS OF LAW

COUNT I – MISREPRESENTATION

43. Plaintiff incorporates all allegations stated above.

44. Under the MMPA, a “misrepresentation is an assertion that is not in accord with the facts.” 15 CSR 60-9.070.

45. Dollar General engages in misrepresentations in violation of § 407.020, RSMo and 15 CSR 60-9.070 by asserting that prices on its shelves and displays for products that are not in accord with the facts of what the customer will actually be charged for those products.

46. As a result of Dollar General’s misrepresentations, Missouri consumers have suffered an ascertainable loss.

COUNT II – DECEPTION

47. Plaintiff incorporates all allegations stated above.

48. Under the MMPA, a “deception is any method, act, use, practice, advertisement or solicitation that has the tendency or capacity to mislead, deceive or cheat, or that tends to create a false impression.” 15 CSR 60-9.020.

49. Dollar General engages in deception in violation of § 407.020, RSMo and 15 CSR 60-9.020 in that it’s listed prices for products have the tendency or capacity to mislead, deceive or cheat, or that tends to create a false impression in consumers regarding the price they will actually be charged for those products.

COUNT III – CONCEALMENT/SUPPRESSION OF MATERIAL FACTS

50. Plaintiff incorporates all allegations stated above.

51. Under the MMPA, “[c]oncealment of a material fact is any method, act, use or practice which operates to hide or keep material facts from consumers.” 15 CSR 60-9.110(1).

52. “Suppression of a material fact is any method, act, use or practice which is likely to curtail or reduce the ability of consumers to take notice of material facts which are stated.” 15 CSR 60-9.110(2).

53. Dollar General engages in concealment and/or suppression of material facts in violation of § 407.020, RSMo and 15 CSR 60-9.110 in that its actions alleged herein operate to hide or keep from consumers the material fact of the prices they will be charged for products, and/or is likely to curtail or reduce the ability of consumers to take notice of those material facts.

COUNT IV - UNFAIR PRACTICES

54. Plaintiff incorporates all allegations stated above.

55. Under the MMPA, an unfair practice is any practice that “is unethical, oppressive or unscrupulous” and “[p]resents a risk of, or causes, substantial injury to consumers.” 15 CSR 60-8.020(1).

56. Dollar General engages in unfair practices in violation of § 407.020, RSMo and 15 CSR 60-8.020 because its actions alleged herein are unethical, oppressive or unscrupulous and present a risk of or cause

substantial injury to consumers.

RELIEF

WHEREFORE, Plaintiff prays this Court enter judgment:

1. Finding that Defendant violated the provisions of § 407.020.
2. Issuing a preliminary injunction prohibiting and enjoining Dollar General and its agents, servants, employees, representatives, and other individuals acting at its direction from engaging in any of the acts and practices described herein that this Court declares unlawful;
3. Issuing a permanent injunction prohibiting and enjoining Dollar General and its agents, servants, employees, representatives, and other individuals acting at its direction from engaging in any of the acts and practices described herein that this Court declares unlawful;
4. Award a civil penalty to the state of one thousand dollars for each violation of § 407.020;
5. An award of restitution payable to the State as may be necessary to restore to any person who has suffered any ascertainable loss as a result of Defendant's unlawful practices;
6. An additional award equal to 10% of any restitution awarded in this action payable to the State to the credit of the Merchandising Practices Revolving Fund as required by § 407.140.3;

7. Disgorgement of Defendant's ill-gotten gains acquired in connection with its unlawful practices;
8. Requiring Defendant to pay all court, investigative, and prosecution costs of this case per § 407.130; and
9. Granting any further relief that this Court deems proper.

Respectfully submitted,

ANDREW BAILEY
Attorney General

/s/ Steven Reed

Steven Reed, #40616
Steven.Reed@ago.mo.gov
Keith Wade, #74889
Keith.Wade@ago.mo.gov
Assistant Attorneys General
P.O. Box 899
Jefferson City, MO 65102
Phone: (573) 751-0023
Fax: (573) 751-2041

ATTORNEYS FOR PLAINTIFF