

IN THE CIRCUIT COURT FOR ST. LOUIS COUNTY
STATE OF MISSOURI

JOHN TAYLOR, on behalf of himself and all)
others similarly situated,)
)
Plaintiffs,)
)
vs.)
)
MURPHY OIL USA, INC.,)
SERVE: CT Corporation)
120 S. Central Avenue)
Clayton, MO 63645)
)
Defendant.)

CLASS ACTION PETITION

COMES NOW Plaintiff John Taylor, on behalf of himself and all others similarly situated, by and through the undersigned counsel, and for their Class Action Petition against Murphy Oil USA, Inc., alleges and states as follows:

1. Defendant Murphy Oil USA, Inc. (“Murphy Oil”), on information and belief owns and operates gas stations in parking lots of Walmart stores. On information and belief Murphy Oil owns and operates the gas station located in the parking lot of the Walmart store in Fredericktown, Missouri.
2. Plaintiff John Taylor is a United States citizen and a resident and taxpayer of Jefferson County, Missouri.
3. On information and belief, Defendant Murphy Oil is Delaware corporation registered to do business in Missouri with its registered agent as CT Corporation with a registered office located at 120 South Central Avenue, Clayton, Missouri 63105.

4. On April 10, 2019, John Taylor purchased gasoline from the Murphy Oil gas station in the Fredericktown Walmart parking lot. A true and accurate copy of John Taylor's receipt is denoted Exhibit 1 and attached to this petition.

5. At Murphy Oil's gas pump Taylor saw that there were two different prices listed for each type of gasoline and Taylor was charged the higher price. A true and accurate photo of the pump and price display at the time and place where Taylor purchased his gasoline is denoted Exhibit 2 and attached to this petition.

6. Murphy Oil's pump for regular unleaded gasoline listed a "Discounted Price" of \$2.339 per gallon and a "Price Per Gallon, All Taxes Included" of \$2.309. The discounted price was higher than the full price.

7. Murphy Oil's pump listed a higher price as the "discounted price" for all three types of gasoline and for diesel.

8. Murphy Oil actually charges the higher "discounted" price for gasoline and diesel instead of the lower "Price Per Gallon, All Taxes Included" price.

**COUNT 1
(MERCHANDISING PRACTICES ACT)**

9. Plaintiff restates and incorporates by reference the allegations of paragraphs 1-8.

10. Defendant is a corporation subject to the Missouri Merchandising Practices Act.

11. Defendant's pump prices were misleading since a user could not tell what the real price was or would be and because the "discounted" price was higher than the "full" price.

12. Defendant's display of two different prices and charging the higher "discounted" price, and the collection, receipt, and retention of the higher price was misleading, and

constituted deception, fraud, false pretense, false promise, misrepresentation, and an unfair practice of the concealment, suppression, or omission of a material fact.

13. On information and belief, the Fredericktown Murphy USA gas station was not the only Murphy USA gas station whose pumps displayed two different prices with the higher price being labelled the “discounted” price and charged the higher price for gasoline and diesel.

14. All conditions precedent to Plaintiff and the Plaintiff Class bringing and prevailing on this claim have been satisfied.

15. On information and belief, Defendant’s misleading and illegal acts alleged were done for a substantial period of time and were done intentionally with the specific intent to profit from the misleading practice.

16. Pursuant to Supreme Court Rule 52.08, this case is proper for a class action with the following alternative definitions of the class:

A. All persons who, at retail, purchased gasoline or diesel from Defendant where the gasoline pump displayed two different prices for the gasoline with the “discounted” price being the higher price and who were charged the higher price;

B. All persons who, at retail, purchased gasoline or diesel from Defendant, at a Missouri retail location, where the gasoline pump displayed two different prices for the gasoline with the “discounted” price being the higher price and who were charged the higher price; or

C. All persons who, at retail, purchased gasoline or diesel from Defendant, at Defendant’s Fredericktown, Missouri, retail location, where the gasoline pump displayed two different prices for the gasoline with the “discounted” price being the higher price and who were charged the higher price.

17. Whatever class definition is used, the expected number of plaintiffs of the class would at least number in the hundreds and probably number in the many thousands, the class is so numerous that joinder of all members is impracticable.

18. Whatever class definition is used, there are questions of law and fact common to the class including the following:

A. Which of Defendant's retail locations had different prices displayed on the gasoline pumps for gasoline and diesel;

B. Whether Defendant's pumps charged the higher "discounted" price shown on the pump;

C. Whether Defendant's displayed prices as set forth above is misleading and constituted deception, fraud, false pretense, false promise, misrepresentation, or an unfair practice of the concealment, suppression, or omission of a material fact; and

D. What is the proper measure of actual damages for consumers who paid the higher price, as shown on the pump, for gasoline or diesel fuel.

19. Whatever class definition is used, the claim of Plaintiff Taylor is typical of those of the class.

20. Whatever class definition is used, Plaintiff Taylor will fairly and adequately represent and protect the interests of the class.

21. Plaintiff's counsel is experienced and successful in class action litigation and litigation in general.

22. The prosecution of separate lawsuits by any of the members of any proposed class would create a risk of inconsistent or varying adjudications with respect to individual members

of the class which would establish incompatible standards of conduct for the party opposing the class.

23. Adjudications of individual member claims would as a practical matter be dispositive of the interests of other members of the class not party to the adjudications or substantially impair or impede their ability to protect their interests.

24. As set forth above, questions of fact and law common to the members of the class predominate over any questions affecting only individual members and a class action is a superior to other available methods for the fair and efficient adjudication of the controversy.

25. For any of the possible classes, the management of the class action should be easy.

26. Judicial economy militates in favor of one class action rather than many lawsuits over gasoline and diesel purchases.

27. All conditions precedent to certification of this class action have been satisfied.

WHEREFORE, Plaintiff and the Plaintiff Class respectfully ask this Court to certify the Plaintiff Class, to enter judgment for the Plaintiff and the Plaintiff Class, to award each member of the Plaintiff Class actual damages which are fair and reasonable, and to award each member of the Plaintiff Class the amount in higher gas prices each member paid, to award prejudgment interest at the statutory rate of 9% per annum, to award punitive damages to the Plaintiff Class in an amount which is fair and reasonable, for the award of taxable court costs, for the award of

reasonable attorney fees incurred in prosecuting this action, and for any other relief deemed just.

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