

Javier L. Merino, Esq. – NJ Attorney ID No.:078112014
Andrew R. Wolf, Esq. - NJ Attorney ID No.: 018621995
THE DANN LAW FIRM, PC
1520 U.S. Hwy. 130 – Suite 101
North Brunswick, NJ 08902
(201) 355-3440 – -TELEPHONE
(216) 373-0536 – FAX

Jonathan Rudnick, Esq.
NJ Attorney ID No.: 034721990
The Law Office of Jonathan Rudnick LLC
788 Shrewsbury Ave, Suite 204
Tinton Falls, NJ, 07724
Attorneys for Plaintiff and those similarly situated

<p>RYAN BUTTON, ON BEHALF OF HIMSELF AND THOSE SIMILARLY SITUATED, Plaintiff,</p> <p>vs.</p> <p>DOLLAR GENERAL CORPORATION, DOLGENCORP, LLC D/B/A DOLLAR GENERAL, TODD VASOS, JEFF OWEN, STEVE SUNDERLAND, EMILY TAYLOR, AND JOHN DOES 1-500, INDIVIDUALLY, JOINTLY, SEVERALLY, OR IN THE ALTERNATIVE,</p> <p>Defendants.</p>	<p>SUPERIOR COURT OF NEW JERSEY MONMOUTH COUNTY - LAW DIVISION</p> <p>Civil Action</p> <p>Docket No.: MON-L-</p> <p>CLASS ACTION COMPLAINT AND JURY DEMAND</p>
---	--

Plaintiff, RYAN BUTTON (“Plaintiff”), on behalf of himself and those similarly
situated, by way of Complaint, states:

NATURE OF THE ACTION

1. This is a consumer protection class action against DOLLAR GENERAL CORPORATION (“DGC”), DOLGENCORP, LLC D/B/A DOLLAR GENERAL (“DOLLAR GENERAL”), Todd Vasos, Jeff Owen, Steve Sunderland, Emily Taylor, JOHN DOES 1-500, (“John Does”), collectively “Defendants” arising out of defendants’ policies and

practices of regularly charging Plaintiff and putative class members a higher price at the register than the price of merchandise advertised on the shelves at the time of sale at its from Dollar General stores in New Jersey.

2. The class action claims arise from Defendants' regular practice of charging customers a higher price on various items than the price advertised on the shelves, in violation of the New Jersey General Advertising Regulations, N.J.A.C. 13:45A-9.1, *et seq.* ("GA Regulations"); New Jersey Unit Price Disclosure Act Regulations, N.J.A.C. 13:45A-14.1, *et seq.* ("Price Disclosure Regulations") Consumer Fraud Act, N.J.S.A. 56:8-1 *et seq.* ("CFA"); and the Truth in Consumer Contract Notice and Warranty Act ("TCCWNA"), N.J.S.A. 56:12-14, *et seq.*, for Defendants' unlawful practices of charging more than the advertised price of merchandise to its New Jersey consumers in its New Jersey locations.

VENUE

3. Venue in Monmouth County is proper, pursuant to R. 4:3-2, because it is the county in which Plaintiff resides and is a county in which Defendants do business.

PARTIES

4. Plaintiff resides in Cliffwood Beach, New Jersey.
5. Defendant DOLLAR GENERAL is the sole legal entity who operates stores trading as "Dollar General" in the State of New Jersey. DOLLAR GENERAL's principal place of business is in Goodlettsville, Tennessee.
6. Defendant DGC is the parent of DOLLAR GENERAL. DGC's principal place of business is in Goodlettsville, Tennessee.
7. Defendant Todd Vasos is the Chief Executive Officer of Dollar General and is a member of this Board of Directors. He has been in those positions at all times relevant to this matter.

8. Defendant Jeff Owen is the Chief Operating Officer of Dollar General. He has been in this position since 2019. Prior to holding this position, he was the Executive Vice President of Store Operations from 2015 to 2019.
9. Defendant Steve Sunderland is the Executive Vice President of Store Operations of Dollar General. He has been in this position since 2019. Prior to holding this position, he was the Senior Vice President of Store Operations from 2014 to 2019.
10. Defendant Emily Taylor is the Executive Vice President and Chief merchandising Officer of Dollar General. She has been in this position since 2020. Prior to holding this position, she was the Senior Vice President of Store Operations from 2014 to 2019. She joined Dollar General in 1998 and held roles of increasing responsibility in investor relations, financial planning and analysis, merchandise planning, pricing and merchandising operations prior to her promotion to Vice President, Pricing & Merchandise Data Optimization in March 2011. She served as Vice President, Merchandising Operations (March 2012 to April 2014) and was subsequently promoted to Senior Vice President, General Merchandise Manager in April 2014. She most recently served as Senior Vice President, Channel Innovation (September 2019 to September 2020).
11. Defendants Todd Vasos, Jeff Owen, Steve Sunderland and Emily Taylor are all officers and or directors of Dollar General who, at all times relevant to this matter, were responsible for setting and implementing Dollar General's policies, procedures and practices regarding ensuring compliance with New Jersey state laws and regulations regarding merchandise pricing advertisements on its shelves and charging the advertised prices at the cash registers in Dollar General's New Jersey stores.

12. Defendants JOHN/JANE DOES 1-500 are fictitious names of individuals who are officers, supervisors, regional directors, and or managers of Dollar General stores located in New Jersey during the class period, alleged for the purpose of substituting their names for those of any additional defendants whose identity may be disclosed in discovery and should be made parties to this action.
13. JOHN/JANE DOES 1-500 are all employees of Dollar General who, at all times relevant to this matter, were responsible for setting and implementing Dollar General's policies, procedures and practices regarding ensuring compliance with New Jersey state laws and regulations regarding merchandise pricing advertisements on its shelves and charging the advertised prices at the cash registers in Dollar General's New Jersey stores and the stores they each manage or supervise.
14. Most, if not all of JOHN/JANE DOES 1-500 reside in or are otherwise residents or citizens of New Jersey at all times relevant to this matter.
15. Most, if not all of JOHN/JANE DOES 1-500 resided in or were otherwise residents or citizens of New Jersey at the time this Complaint was filed.
16. JOHN/JANE DOES 1-500 are each personally and directly liable to Plaintiff and putative class members that purchased items in the stores where they were responsible for setting and implementing Dollar General's policies, procedures and practices regarding ensuring compliance with New Jersey state laws and regulations regarding merchandise pricing advertisements on its shelves and charging the advertised prices at the cash registers due to their violations of the consumer statutes and regulations pleaded herein. See *Allen v V & A Bros.* 208 N.J. 114 (2011) and *N.J.S.A* 56:8-2.

17. Plaintiff on behalf of himself and the putative class seeks significant relief directly from JOHN/JANE DOES 1-500 both collectively and individually.

FACTS RELATED TO DOLLAR GENERAL

18. Plaintiff and all others similarly situated are persons who shop at Dollar General stores in New Jersey.
19. DOLLAR GENERAL operates dollar stores that offer a variety of inexpensive merchandise, including home products, seasonal products, consumables, and apparel. The company's business model is about offering products at competitive prices (typically less than \$10) in a convenient, small-store format. Its core customer category includes low-to-middle-income customers. The company's stores are located in convenient locations that are easily accessible to its customers. It follows a small-box format and the stores have an easy "in and out" shopping set-up.¹
20. Dollar General caters mainly to low-and-middle-income customers in rural and suburban areas. The company's core customers earn around \$40,000 a year or below, \$20,000 below the median income. Dollar General looks to build stores in rural areas where a big box retailer or grocery store is not within 15 or 20 miles. Around 75% of Dollar General stores are in towns with 20,000 or fewer people.²

¹ See <https://marketrealist.com/2017/04/dollar-general-why-small-format-stores-are-key/>

² See <https://www.cnn.com/2019/07/19/business/dollar-general-opposition>

21. As of March 2022, DOLLAR GENERAL owned and operated approximately one hundred seventy-five (175) Dollar General stores in New Jersey, with more locations scheduled to open.³

FACTS RELATED TO PLAINTIFF'S TRANSACTIONS

22. Plaintiff regularly shops at the Dollar General located at 228 NJ-35, Keyport, New Jersey 07735 (“Dollar General Keyport”).
23. While shopping at Dollar General Keyport in early 2022, Plaintiff noticed discrepancies between the prices of merchandise advertised on the shelves and what he was charged at checkout.
24. When there was a price discrepancy, Plaintiff was usually charged and paid more than the advertised price.
25. As a result of these discrepancies, Plaintiff began to track his purchases.
26. Dollar General regularly advertised promotions for Saturday purchases. Specifically, purchases of at least twenty-five dollars (\$25.00) made on Saturdays would receive a five-dollar (\$5.00) store discount. Plaintiff attempted to focus his Dollar General shopping on Saturdays, using the discount to save money.
27. Relying upon the advertised price of merchandise, Plaintiff would frequently fill his basket with at least twenty-five dollars (\$25.00) worth of merchandise and complete the purchase to obtain the five-dollar (\$5.00) discount.

³ See <https://www.statista.com/statistics/1121086/number-of-dollar-general-stores-in-the-united-states-by-state/>

28. Plaintiff noticed pricing issues and became suspicious when he was filling up his basket to twenty-five dollars (\$25) worth of goods and merchandise but would notice the prices rung up at the register were higher.
29. Due to Plaintiff's experiences in being charged more at checkout than the advertised shelf price for merchandise, Plaintiff started to take pictures of the advertised prices to document the advertised/shelf prices to compare them to what he was charged and paid at checkout.
30. From May through July 2022, Plaintiff made several purchases at the Keyport Dollar General store during which Dollar General charged him a higher price for its merchandise than advertised shelf price. The discrepancies are outlined below:

June 16, 2022 (See **Exhibit A**: Receipt, advertisements)

Date	Location	Brand	Product	Price on Sign	Price at Register	Overcharge Amount
16-Jun	Keyport	Clover Valley	2% Half Gallon Milk	\$3.15	\$3.20	\$0.05
16-Jun	Keyport	General Mills	Lucky Charms	\$4.00	\$4.75	\$0.75
16-Jun	Keyport	Dr. Pepper	Diet Dr. Pepper 12-pack	\$4.50	\$5.00	\$0.50

June 21, 2022 (See **Exhibit B**: Receipt, advertisement)

Date	Location	Brand	Product	Price on Sign	Price at Register	Overcharge Amount
21-Jun	Keyport	Pirates Booty	Pirates Booty	\$2.50	\$2.75	\$0.25

June 23, 2022 (See **Exhibit C**: Receipt, advertisement)

Date	Location	Brand	Product	Price on Sign	Price at Register	Overcharge Amount
23-Jun	Keyport	Clover Valley	2% Half Gallon Milk	\$3.15	\$3.20	\$0.05

June 28, 2022 (See **Exhibit D**: Receipt, advertisements)

Date	Location	Brand	Product	Price on Sign	Price at Register	Overcharge Amount
28-Jun	Keyport	Clover Valley	Small Curd Cottage Cheese	\$2.35	\$2.40	\$0.05
28-Jun	Keyport	Clover Valley	Chef Boyardee Mini Ravioli	\$1.00	\$1.25	\$0.25
28-Jun	Keyport	Clover Valley	Armour Smoked Ham	\$3.00	\$3.75	\$0.75

July 1, 2022 (See **Exhibit E**: Receipt, advertisements)

Date	Location	Brand	Product	Price on Sign	Price at Register	Overcharge Amount
1-Jul	Keyport	Clover Valley	Scott Toilet Paper	\$8.00	\$8.35	\$0.35
1-Jul	Keyport	Clover Valley	All Free Clear Detergent	\$7.50	\$8.00	\$0.50

31. Defendants used the same procedures that they employed in charging a higher price than advertised to Plaintiff when selling the same and/or similar merchandise to numerous other New Jersey consumers.
32. In the six-year period before the Complaint was filed, Defendants charged prices that were higher than advertised that were same or similar to the advertisements described, *supra*, to numerous New Jersey consumers.
33. It is Defendants' policy and practice to charge a higher price at the register for merchandise than the price advertised on the unit price labels for the same merchandise on the shelves in DOLLAR GENERAL's New Jersey stores.

CLASS ACTION ALLEGATIONS

34. This action is brought and may properly proceed as a class action, pursuant to the provisions of Rule 4:32-1(b)(2) and b(3) of the New Jersey Court Rules. Plaintiff brings

this action on behalf of himself and all others similarly situated. Plaintiff seeks certification of the class pursuant to Rule 4:32-1(b)(2) and Rule 4:32-1(b)(3) seeking a judgment pursuant to Rule 4:32-2(c) to confer benefits upon a fluid class, whose members may be, but need not have been members of the class in suit; and the subclass Rule 4:32-1(b)(3).

The class and subclass are initially defined as follows:

CLASS:

All persons who resided in New Jersey on the date this complaint was filed, who at any time on or after the day six years prior to the date on which this Complaint was filed, who purchased merchandise at a Dollar General store located in New Jersey.

SUBCLASS:

All members of the Class who paid more for merchandise than the advertised price labeled on the shelf at Dollar General store located in New Jersey.

35. The class and subclass for whose benefit this action is brought is so numerous that joinder of all members is impracticable.
36. There are thousands if not tens or hundreds of thousands of consumers who meet the class and subclass definitions.
37. There are questions of law and fact common to the members of class and subclass. These common questions include but are not limited to:
 - a. Whether the shelf price labels are advertisements under the GA Regulations.
 - b. Whether the shelf price labels are advertisements under the CFA.
 - c. Whether any or all of the merchandise sold at Dollar General stores in New Jersey are “Consumer commodities” under the Price Disclosure Regulations;
 - d. Whether the mis-priced shelf price labels violate the GA Regulations and/or the CFA.

- e. Whether the shelf price labels advertised to Plaintiff and others similarly situated is a contract or notice pursuant the TCCWNA;
- f. Whether the receipts provided to Plaintiff and others similarly situated is a contract or notice pursuant the TCCWNA;
- g. Whether Dollar General stores in New Jersey are a “seller”, subject to the requirements of the TCCWNA;
- h. Whether by charging consumers in New Jersey more than the advertised shelf price at checkout, Defendants failed to “substantiate through documents, records or other written proof any claim made regarding the... price of the advertised merchandise.... available for sale” (N.J.A.C. § 13:45A-9.2(a)(10)).
- i. Whether by charging consumers in New Jersey more than the advertised shelf price at checkout, Defendants advertised merchandise as a part of plan or scheme not to sell the item at the advertised price (N.J.S.A. § 56:8-2.2).
- j. Whether by charging consumers in New Jersey more than the advertised shelf price at checkout, Defendants advertised merchandise as a part of plan or scheme not to sell the item at the advertised price as required by the Price Disclosure Regulations (N.J.A.C. § 13:45A-14.10(a)(1).
- k. Whether by affixing an advertised price on store shelves which was less than the actual price charged for the merchandise at checkout, Defendants failed to plainly mark the total selling price as required by the CFA. (N.J.S.A. § 56:8-2.5).
- l. Whether by affixing an advertised price on store shelves which was less than the actual price charged for the merchandise at checkout, violate the GA Regulations

and/or the Price Disclosure Regulations and/or the CFA, Defendants violated the Declaratory Judgment Act (N.J.S.A. §§ 2A:16-50, et seq.).

38. Plaintiff's claims are typical of the claims of the members of the class and subclass which he represents because all such claims arise out of the same policies, practices, and conduct, and the same or similar documents used by Defendants in their dealings with Plaintiff and putative class members.
39. Plaintiff has no interests antagonistic to those of the class.
40. Plaintiff will fairly and adequately protect the interests of the class and subclass, and has retained competent counsel experienced in the prosecution of consumer litigation and class actions.
41. Proposed Class Counsel has investigated and identified potential claims in this action.
42. Proposed Class Counsel has a great deal of experience in handling class actions, other complex litigation, and claims of the type asserted in this action.
43. Defendants have acted, or refused to act, on grounds generally applicable to the class, thereby making appropriate final injunctive relief or corresponding declaratory relief with respect to the class as a whole.
44. A class action is superior to other available methods for the fair and efficient adjudication of this controversy since joinder of all members is impracticable. While the economic damages suffered by the individual members of the subclass are significant to those class members, the amount is modest compared to the expense and burden of individual litigation. A class action will cause an orderly and expeditious administration of the claims of the class, and will foster economies of time, effort, and expense.

45. The questions of law or fact common to the members of the class and subclass predominate over any questions affecting only individual members.
46. A class action will cause an orderly and expeditious administration of the claims of the subclass, and will foster economies of time, effort and expense.
47. Plaintiff does not anticipate any difficulty in the management of this litigation.

CLASS CLAIMS

COUNT ONE (On Behalf of Plaintiff and the Class) New Jersey Declaratory Judgment (N.J.S.A. §§ 2A:16-50, *et seq.*)

48. Plaintiff repeats and re-alleges all of the prior allegations as if set forth at length herein.
49. At all relevant times, there was in effect the Declaratory Judgments Act (“DJA”), N.J.S.A. § 2A:16-52, which states, in relevant part:
- All courts of record in this state shall, within their respective jurisdictions, have power to declare rights, status and other legal relations, whether or not further relief is or could be claimed; and no action or proceeding shall be open to objection on the ground that a declaratory judgment is demanded.
- The enumeration in other sections of this article of the questions determinable and rights declarable in a proceeding brought under the provisions of this article does not limit or restrict the exercise of the general powers conferred by this section in a proceeding for declaratory relief, in which a judgment will terminate the controversy or remove an uncertainty.
50. The GA Regulations confer rights on the consumers in New Jersey as contemplated by the Uniform Declaratory Judgments Law.
51. The CFA is a statute that confers rights as contemplated by the Uniform Declaratory Judgments Law.
52. The Price Disclosure Regulations confer rights on the consumers in New Jersey as contemplated by the Uniform Declaratory Judgments Law.

53. The TCCWNA is a statute that confers rights as contemplated by the Uniform Declaratory Judgments Law.
54. Defendants violated the GA Regulations, CFA and TCCWNA by committing an unconscionable commercial practice, misrepresentations and or other affirmative unlawful act by violating the GA Regulations, the Price Disclosure Regulations, and the CFA in its actions in falsely advertising prices to Plaintiff and those similarly situated, which made an item appear cheaper than what it actually was.
55. Plaintiff, individually, and on behalf of the Class, seeks an order declaring that Defendants' actions in advertising prices on its shelves which are less than the actual price of the merchandise charged to Plaintiff and class members violated the GA Regulations, Price Disclosure Regulations, CFA and TCCWNA.
56. The controversies presented in this case are definite and concrete and affect the adverse legal interests of the parties. Plaintiff and Class members contend that Defendants are legally precluded from advertising prices on the shelves of Dollar General's New Jersey stores that are less than the actual price of the merchandise charged to persons in New Jersey who purchase that merchandise.
57. There is an actual controversy between the parties of sufficient immediacy and reality to warrant the issuance of a declaratory judgment because Defendants have provided and will continue to provide unlawful advertisements in New Jersey and charge its customers more than the prices advertised on Dollar General store shelves.
58. The Court should enter a declaratory judgment that Defendants' actions in providing its New Jersey customers with shelf advertisements that understate the actual price of the

merchandise charged to its customers, like those Plaintiff encountered, violate the GA Regulations, Price Disclosure Regulations, CFA and TCCWNA.

59. The Court should enter a declaratory judgment requiring Defendants to cease providing unlawful advertisements to its customers in New Jersey and also to cease charging more than the price advertised on the shelf of its New Jersey stores.
60. Putative class members should be provided notice that Defendants' actions in providing unlawful advertisements violate the GA Regulations, Price Disclosure Regulations, CFA and TCCWNA.
61. Putative class members should be provided notice that if they purchased an item and paid more than the advertised shelf price, like Plaintiff, they may also be a member of the Class and entitled to monetary relief under the CFA, GA Regulations, Price Disclosure Regulations, and TCCWNA.
62. If the Court were to deny Plaintiff's request for declaratory relief, this controversy will continue to exist, as Defendants will continue to provide unlawful advertisements to its customers in New Jersey and continue to charge them more than advertised shelf price.
63. As a result of the aforementioned violations, Plaintiff, on behalf of himself and the putative class, seeks a declaratory judgment that Defendants have violated the GA Regulations, the CFA, the Price Disclosure Regulations and the TCCWNA, injunctive relief enjoining Defendants from continuing to use advertisements that violate New Jersey law, and an award of reasonable attorneys' fees and costs.

COUNT TWO (On Behalf of Plaintiff and the Class and Subclass)
Violations of the GA Regulations and the CFA

64. Plaintiff repeats and re-alleges all of the prior allegations as if set forth at length herein.

65. At all relevant times, there was in effect the General Advertising Regulations (the “GA Regulations”), N.J.A.C. § 13:45A-9.1, *et. seq.*
66. The GA regulations prohibit “the failure of an advertiser to substantiate through documents, records or other written proof any claim made regarding the....price of the advertised merchandise”. N.J.A.C. § 13:45A-9.2(a)(10).
67. An advertisement violating the GA regulations is a *per se* violation of the CFA. *Leon v. Rite Aid Corp.*, 340 N.J. Super. 462, 468 (App. Div. 2001).
68. Defendants’ price labels on shelves in Dollar General’s New Jersey stores are “Advertisements” under the GA Regulations at N.J.A.C. § 13:45A-9.1 and under the CFA at N.J.S.A. § 56:8-1.
69. Defendants are “Advertisers” under the GA Regulations at N.J.A.C. § 13:45A-9.1.
70. Dollar General’s unit price labels on its New Jersey store shelves for the sale of merchandise via its brick and mortar stores and the sale of merchandise are subject to the GA Regulations and the CFA.
71. Defendants have violated the GA regulations at N.J.A.C. § 13:45A-9.2(a)(10) by charging consumers more than the price advertised on its unit price labels at Dollar General’s New Jersey stores.
72. Defendants’ aforementioned violations of the GA Regulations constitute per se violations of the CFA and is an unconscionable commercial practice in direct violation of the CFA at N.J.S.A. 56:8-2.
73. Furthermore, Dollar General's “advertisement of merchandise as part of a plan or scheme not to sell the item or service so advertised or not to sell the same at the advertised price is an unlawful practice and a violation of the [CFA].” N.J.S.A. 56:8-2.2.

74. In addition, Defendants have engaged in unlawful, affirmative acts under the CFA, including unconscionable commercial practices, deception, fraud, false promises, false pretenses and/or misrepresentations in direct violation of the CFA in their interactions with Plaintiff and those similarly situated by charging a higher price at the register for merchandise than the price advertised on the unit price labels for the same merchandise on the shelves in Dollar General's New Jersey stores.
75. Plaintiff and those similarly situated paid more for the merchandise they purchased than the price advertised on the shelf labels for that merchandise at the times of their purchases.
76. As a direct result of Defendants' unit price mislabeling practices, Plaintiff and those similarly situated suffered an ascertainable loss in amounts they were overcharged in excess of the advertised price. Plaintiff suffered an ascertainable loss in the amounts he was overcharged.
77. As a result of the aforementioned violations, Plaintiff and those similarly situated re entitled to treble damages, reasonable attorney's fees and costs, pursuant to 56:8-19.

COUNT THREE (On Behalf of Plaintiff and the Class and Subclass)
Violations of the Price Disclosure Regulations and the CFA

78. Plaintiff repeats and re-alleges all of the prior allegations as if set forth at length herein.
79. At all relevant times, there was in effect the Unit Price Disclosure Regulations (the "PD Regulations"), N.J.A.C. § 13:45A-14.1, *et. Seq.*
80. At all relevant times, Defendants were "persons" under the PD Regulations, as they were:

"corporation[s] or other organization[s] engaged in the sale, display or offering for sale of consumer commodities at retail establishment whose combined total floor area, exclusive of office, receiving and storage areas, dedicated to the sale of consumer commodities exceeds 4,000 square feet⁴ or whose combined annual gross

⁴ Specifically, Defendants noted in its March 19, 2021 2021 10-K that "we expect that our traditional 7,300 square foot store format will continue to be the primary store layout for new

receipts from the sale of consumer commodities in the preceding year exceeded \$ 2 million, regardless of the square footage involved⁵.”

N.J.A.C. § 13:45A-14.2.

81. The PD Regulations “provide for the disclosure of information necessary to enable consumers to compare, easily and effectively, the retail prices of certain consumer commodities regardless of package size or quantity.” N.J.A.C. § 13:45A-14.1.

82. The merchandise Defendants sells at its Dollar General stores in New Jersey are “consumer commodities” under the PD Regulations. N.J.A.C. § 13:45A-14.2.

83. The items that Plaintiff purchased are “consumer commodities”.

84. The PD Regulations at § 13:45A-14.10(a)(1) mandate, in relevant part:

Whenever a regulated consumer commodity is exposed or offered for sale at retail, the unit price and retail price shall be disclosed in the following manner:

If the commodity is displayed upon a shelf, the unit price label shall appear directly below the commodity, or, alternatively, a unit price tag shall be attached to the commodity. If the use of a unit price label or unit price tag is impossible or impractical, a unit price sign or list may be used provided such sign or list is conspicuously located at or near the commodity.

85. The “retail price” is defined in the PD Regulations as “the total retail price of a consumer commodity, excluding sales tax.” N.J.A.C. § 13:45A-14.2.

86. Here, Defendants failed to properly disclose the actual retail price of its consumer goods in its unit price labels as the unit price labels understated the true retail price of the items charged to customers at Dollar General’s stores in New Jersey.

stores in 2021.” Therefore, Defendants are well in excess of the 4,000 square feet threshold under the PD Regulations. See <https://sec.report/Document/0001558370-21-003245/>.

⁵ Defendants’ gross sales/revenue in 2022 to date is approximately \$34,220,000,000, well in excess of the \$2 million threshold under the PD Regulations. See <https://www.wsj.com/market-data/quotes/DG/financials/annual/income-statement>.

87. A price disclosure violating the PD Regulations is a *per se* violation of the CFA.
88. As a result of Defendants' aforementioned CFA Violations in the Dollar General stores in New Jersey, Plaintiff and those similarly situated suffered an ascertainable loss in amounts of the amount they were charged in excess of the unit price disclosure advertised on the shelves at Dollar General stores in New Jersey.
89. As a result of the aforementioned violations, Plaintiff and those similarly situated are entitled to treble damages, reasonable attorney's fees and costs, pursuant to 56:8-19.

COUNT FOUR (On Behalf of Plaintiff and the Subclass)
Violations of the Truth-in-Consumer Contract, Warranty and Notice Act (TCCWNA)
Predicated on Violations of the GA Regulations, PD Regulations, and the CFA

90. Plaintiff repeats and re-alleges all of the prior allegations as if set forth at length herein.
91. The TCCWNA prohibits sellers from offering or giving written contracts or notices to consumers that contain any provision that violates a clearly established right of a consumer or a clearly established responsibility of a seller under New Jersey or Federal law. N.J.S.A. 56:12-15.
92. At all times relevant to this matter, Plaintiff and those similarly situated were "consumers" with regard to the unit price label advertisements that Dollar General uses at its stores in New Jersey within the meaning of the TCCWNA.
93. At all times relevant to this matter, Plaintiff and those similarly situated were customers of Defendants in that they had all purchased merchandise from Defendants in an amount which was greater than the advertised price.
94. At all times relevant to this matter, Defendants were "sellers" with regard to the sale of its merchandise at its stores within the meaning of the TCCWNA.

95. The unit price labels on Dollar General store shelves in its New Jersey stores which understated the true price of items that Dollar General provided to Plaintiff and those similarly situated were contracts and/or notices within the meaning of the TCCWNA.
96. The purchase receipts that were provided to Plaintiff and those similarly situated who purchased merchandise at Dollar General stores in New Jersey were contracts and/or notices within the meaning of the TCCWNA.
97. Defendants have violated the TCCWNA at N.J.S.A. 56:12-15 by entering into a consumer contract, displaying and/or giving consumer notices that contained provisions that violated clearly established rights of Plaintiff and all those similarly situated, as established by State law, and by offering a consumer contract that contained provisions that violated their clearly established responsibilities under State law.
98. Specifically, as outlined, *supra*, Defendants' advertisements violated the GA Regulations at N.J.A.C. 13:45A-9.2(a)(10).
99. It is a clearly established right of a consumer in New Jersey to not be provided with an advertisement that violates the GA Regulations at N.J.A.C. 13:45A-9.2(a)(10).
100. It is a clearly established responsibility of a seller to not provide consumers in New Jersey with an advertisement that violates the GA Regulations at N.J.A.C. 13:45A-9.2(a)(10).
101. The contracts/notices that Defendants provided to Plaintiffs and those similarly situated is unlawful because it contains provisions that violate the clearly established legal rights of Plaintiff and those similarly situated and violates Defendants' clearly established responsibilities under New Jersey law by employing methods to obscure the true price of its merchandise contrary to the requirements of the GA Regulations as set forth herein above and in direct violation of the CFA at N.J.S.A. § 56:8-2.

102. Defendants were prohibited from advertising prices for its merchandise which were less than the true price of the merchandise
103. Plaintiff and those similarly situated suffered a harm/were aggrieved because each received an unlawful contract/notice that violated their clearly established rights.
104. Plaintiff and those similarly situated suffered a harm/were aggrieved because each paid an amount, referenced on their receipts, that was in excess of the amount stated on the unit the price label at Dollar General stores in New Jersey.
105. Specifically, as outlined, *supra*, Defendants' contracts/ notices violated the PD Regulations at N.J.A.C. 13:45A-14.10(a)(1).
106. It is a clearly established right of a consumer in New Jersey to not be provided with a unit price label that violates the PD Regulations at N.J.A.C. 13:45A-14.10(a)(1).
107. It is a clearly established responsibility of a seller to not provide consumers in New Jersey with a unit price label that violates the PD Regulations at N.J.A.C. 13:45A-14.10(a)(1).
108. The contract/notice that Defendants provided to Plaintiffs and those similarly situated in Dollar General's unit price labels is unlawful because it contains provisions that violate the clearly established legal rights of Plaintiff and those similarly situated and violates Defendants' clearly established responsibilities under New Jersey law by employing methods to obscure the true price of its merchandise contrary to the requirements of the PD Regulations as set forth herein above and in direct violation of the CFA at N.J.S.A. § 56:8-2.
109. Defendants were prohibited from issuing unit price labels for its merchandise which were less than the true price of the merchandise

110. Plaintiff and those similarly situated suffered a harm/were aggrieved because each received an unlawful unit price label that violated their clearly established rights.
111. Plaintiff and those similarly situated suffered a harm/were aggrieved because each paid an amount, referenced on their receipts, that was in excess of the amount stated on the unit the price label at Dollar General stores in New Jersey.
112. As a result of the aforementioned violations of the TCCWNA, Plaintiff and all others similarly situated are aggrieved consumers and are entitled to statutory damages of not less than \$100.00 plus reasonable attorneys' fees, and costs pursuant to TCCWNA at N.J.S.A. 56:12-17 for each unlawful advertisement sent to them.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff demands judgment against Defendants as follows:

On behalf of himself and all others similarly situated as to the Class (Count One):

- a. Certification of the class, as defined herein, for equitable relief pursuant to Rule 4:32-1(b)(2);
- b. Appointment of named Plaintiff, Ryan Button, as Class Representative and appointment of his attorneys as Class Counsel;
- c. Injunctive relief requiring Defendants to provide an accounting identifying all members of the class and subclass;
- d. Injunctive relief requiring Defendants to provide an accounting of all overcharges during the class period.
- e. A declaratory judgment that Defendants violated the GA Regulations, PD Regulations, CFA, and TCCWNA;
- f. Injunctive relief enjoining Defendants from engaging in future violations of the GA

Regulations, PD Regulations, CFA and TCCWNA;

g. Equitable relief requiring Defendants to disgorge all improper gains received due to their violations of New Jersey state laws directly to identifiable class members, via a *cy pres* award and/or via a fluid recovery pursuant to R. 4:32-2(c).

h. Injunctive relief requiring Defendants to provide notice to all members of the class that their purchases at Dollar General stores in New Jersey may have violated of the GA Regulations, PD Regulations, CFA, and TCCWNA and that if they were harmed or aggrieved or sustained and ascertainable loss that they can bring individual actions for statutory relief under TCCWNA, treble damages under the CFA and for an award of attorneys' fees and costs pursuant to both TCCWNA and the CFA;

i. An award of reasonable attorneys' fees and costs of suit in connection with this action, pursuant to the court's equitable powers, the CFA at N.J.S.A. 56:8-19, and the TCCWNA at N.J.S.A. 56:12-17; and

j. Such other and further relief as the Court deems equitable and just.

On behalf of himself and all others similarly situated as to the Class (Counts Two, Three, and Four)

k. Certification of the Class and Subclass, as defined herein, for monetary relief pursuant to Rule 4:32-1(b)(3);

l. Appointment of named Plaintiff, Ryan Button, as Class Representative and appointment of his attorneys as Class Counsel;

m. Injunctive relief requiring Defendants to provide an accounting identifying all members of the class and subclass;

n. Declaratory judgment that Defendants violated the GA Regulations, PD Regulations, CFA and TCCWNA;

- o. Injunctive relief enjoining Defendants from engaging in future violations of the GA Regulations, PD Regulations, CFA and TCCWNA;
- p. Actual damages;
- q. Treble damages under the Consumer Fraud Act pursuant to the CFA at N.J.S.A. 56:8-19,
- r. Statutory civil penalties of \$100 per illegal advertisement and corresponding purchase for an overcharge pursuant to the TCCWNA at N.J.S.A. 56:12-17;
- s. Reasonable attorneys' fees and costs of suit in connection with this action, pursuant to the CFA at N.J.S.A. 56:8-19 and TCCWNA at N.J.S.A. 56:12-17;
- t. Confer benefits upon the entire class, as a fluid class, pursuant to R.4:32-2(c);
- u. Equitable relief requiring Defendants to disgorge all improper gains received due to their violations of New Jersey state laws directly to identifiable class members, via a *cy pres* award and/or via a fluid recovery pursuant to R. 4:32-2(c);
- v. Pre-judgment and post-judgment interest; and
- w. Such other and further relief as the Court deems equitable and just.

JURY DEMAND

Plaintiff demands a trial by jury on all issues subject to trial.

NOTICE TO ATTORNEY GENERAL OF ACTION

A copy of this Complaint will be mailed to the Attorney General of the State of New Jersey within ten (10) days after the filing of the Complaint with the Court, pursuant to N.J.S.A. 56:8-20.

DESIGNATION OF TRIAL COUNSEL

Pursuant to Rule 4:25-4, Javier L. Merino, Esq. is hereby designated as trial counsel for Plaintiff.

CERTIFICATION

Pursuant to Rule 4:5-1, I hereby certify to the best of my knowledge that the matter in controversy is not the subject of any other action pending in any court or the subject of a pending arbitration proceeding, nor is any other action or arbitration proceeding contemplated. I further certify that I know of no party who should be joined in the action at this time.

/s/ Javier L. Merino

Javier L. Merino, Esq.

Andrew R. Wolf, Esq.

THE DANN LAW FIRM. PC

1520 U.S. Hwy. 130 – Suite 101

North Brunswick, NJ 08902

*Attorneys for Plaintiff, on behalf of
himself and others similarly situated*

Date: October 6, 2022