

STATE OF ILLINOIS
IN THE CIRCUIT COURT OF THE NINETEENTH JUDICIAL CIRCUIT
LAKE COUNTY

SHANA GUDGEL and CRAIG WOOLARD,
*individually and on behalf of all others
similarly situated,*

Plaintiffs,

v.

REYNOLDS CONSUMER PRODUCTS
INC. and REYNOLDS CONSUMER
PRODUCTS LLC,

Defendants.

23LA00000486

Civil Action No. _____

JURY TRIAL DEMANDED

CLASS ACTION COMPLAINT

Plaintiffs Shana Gudgel and Craig Woolard (collectively, “Plaintiffs”) bring this class action suit individually and on behalf of all others similarly situated against Defendants Reynolds Consumer Products Inc. and Reynolds Consumer Products LLC (“Reynolds” or “Defendants”) for the design, manufacturing, marketing, and sale of Hefty Recycling Bags and Great Value Recycling Bags (the “Products”). Plaintiffs make the following allegations pursuant to the investigation of their counsel and based upon information and belief, except as to the allegations specifically pertaining to themselves, which are based on personal knowledge.

JURISDICTION AND VENUE

This Court has jurisdiction over the Defendant and over this action pursuant to 735 ILCS 5/2-209, and in accord with the Illinois Constitution. Defendant is headquartered in Illinois, conducts substantial business in Illinois, and committed the tortious acts complained of in substantial part in Illinois. Defendant manufactures, sells, and/or distributes the Products and is responsible for the advertising, marketing, trade dress, and packaging of the Products. Venue is proper in this forum pursuant to 735 ILCS 5/2-101 because Defendant’s principal place of business is located in this county.

NOTICE

PURSUANT TO LCR - 2-2.14

THIS CASE IS HEREBY SET FOR AN INITIAL CASE MANAGEMENT CONFERENCE

IN COURTROOM _____ ON

1

AT

_____ A.M./P.M.

**FAILURE TO APPEAR MAY RESULT IN THE CASE BEING DISMISSED OR
AN ORDER OF DEFAULT BEING ENTERED.**

PARTIES

Shana Gudgel

Plaintiff Shana Gudgel is a resident and citizen of Florida residing in Brevard County, Florida. She purchased the Hefty Recycling Bags and Great Value Recycling Bags during all applicable statute of limitations periods at Wal-Mart in Brevard County, Florida. Plaintiff is concerned about the environment and seeks out products that are compostable and recyclable so that she can minimize her impact on the environment in general and on the country's plastic waste problems in particular. Therefore, Plaintiff specifically selected the Products in reliance on Defendants' representations that the Products are recyclable. The false representations are located on the labels and other marketing materials for the Products. Had Plaintiff known that the Products are not recyclable in Florida, she would not have purchased the Products or would not have paid as much as she did for the Products.

Plaintiff purchased the Products because she believed they were recyclable. Plaintiff remains in the market for recyclable bags and continues to shop at locations where the Products are sold. If the Products were actually recyclable, Plaintiff would purchase the Product again in the immediate future. But at the moment, Plaintiff is unable to rely on the labels. If the Court were to issue an injunction ordering Defendants to comply with the state and federal laws and prohibiting Defendants' use of the deceptive practices discussed herein, Plaintiff would likely purchase the Products again in the near future.

Craig Woolard

Plaintiff Craig Woolard is a resident and citizen of California residing in San Diego County, California. He purchased the Hefty Recycling Bags during all applicable statute of limitations periods at Wal-Mart in San Diego County, California. Plaintiff is concerned about the

environment and seeks out products that are compostable and recyclable so that he can minimize his impact on the environment in general and on the country's plastic waste problems in particular. Therefore, Plaintiff specifically selected the Products in reliance on Defendants' representations that the Products are recyclable. The false representations are located on the labels and other marketing materials for the Products. Had Plaintiff known that the Products are not recyclable in California, he would not have purchased the Products or would not have paid as much as he did for the Products.

Plaintiff purchased the Products because he believed they were recyclable. Plaintiff remains in the market for recyclable bags and continues to shop at locations where the Products are sold. If the Products were actually recyclable, Plaintiff would purchase the Product again in the immediate future. But at the moment, Plaintiff is unable to rely on the labels. If the Court were to issue an injunction ordering Defendants to comply with the state and federal laws and prohibiting Defendants' use of the deceptive practices discussed herein, Plaintiff would likely purchase the Products again in the near future.

Reynolds Consumer Products, Inc.

Defendant Reynolds Consumer Products, Inc. is a publicly traded corporation organized and existing under the laws of Delaware, with its principal place of business located in Lake Forest, Illinois. It is the parent company of Defendant Reynolds Consumer Products, LLC.

Reynolds Consumer Products, LLC

Defendant Reynolds Consumer Products, LLC is a company organized and existing under the laws of the state of Delaware, with its principal place of business located in Lake Forest, Illinois. It is a wholly owned subsidiary of Reynolds Consumer Products, Inc. and owns the "Hefty" trademark.

On information and belief, in committing the wrongful acts alleged herein, Defendants, in connection with their subsidiaries, affiliates, and/or other related entities and their employees, planned, participated in and furthered a common scheme to induce members of the public to purchase the Products by means of false, misleading, deceptive and fraudulent representations, and Defendants participated in the making of such representations in that it disseminated those misrepresentations or caused them to be disseminated.

Plaintiff reserves the right to amend this Complaint to add different or additional defendants, including without limitation any officer, director, employee, supplier, or distributor of Defendants who has knowingly and willfully aided, abetted, or conspired in the false and deceptive conduct alleged herein.

FACTUAL ALLEGATIONS

The Hefty Recycling Bags are sold in 13- and 30-gallon sizes. Both sizes are sold in packaging depicted below. The illustration depicts the front of a typical box of Hefty Recycling Bags.



Defendants place the prominent representation "RECYCLING" on the front label of the Hefty Recycling Bags with a green background and white font. Next to the representation, Defendants include images of the Hefty Recycling Bags filled with recyclable waste.



The back of the package (pictured above) states: "HEFTY RECYCLING BAGS ARE PERFECT FOR ALL YOUR RECYCLING NEEDS."

The back label also states: "DESIGNED TO HANDLE ALL TYPES OF RECYCLABLES" and "TRANSPARENT FOR QUICK SORTING AND CURBSIDE IDENTIFICATION." A graphic of a blue recycling truck is included, with the "chasing arrows" recycling symbol prominently displayed on its side.

Defendants' website provided additional representations about the suitability of the Hefty Recycling Bags for recycling, stating that they "[r]educe your environmental impact" and are "designed to handle your heaviest recycling jobs." Defendants add, "[t]hese transparent bags make it easy to sort your recyclables and avoid the landfill:

HEFTY® RECYCLING BAGS

Reduce your environmental impact with Hefty® Recycling bags designed to handle your heaviest recycling jobs. Available in 13 and 30 gallon sizes and ideal for daily use or seasonal cleaning, these transparent bags make it easy to sort your recyclables and avoid the landfill.

- Arm & Hammer™ patented odor neutralizer*
- Transparent clear or blue option for easy sorting
- Designed to handle all types of recyclables

BUY NOW
Sizes Available

- 13 gal
- 30 gal

Colors Available

- Clear transparent
- Blue transparent

Defendants advertised the Hefty Recycling Bags on their website with images demonstrating how to use the bags:





Defendants also advertised the Hefty Recycling Bags to consumers along with a video advertisement showing that the bags should be put in the recycle bin with other recyclables.

The Great Value Recycling Bags are similarly sold in various sizes, including 13- and 30-gallon, and Defendants place the prominent representation “Recycling” on the front label of the Great Value Recycling Bags in green font with a blue background. The front label also states: “EASY SORTING,” “MUNICIPAL PROGRAMS,” and “RECYCLABLES.” A representative example of the labeling of the Great Value Recycling Bags appears below:



Recyclable material means those materials that are capable of being recycled and that would otherwise be processed or disposed of as solid waste and “Recycling” means any process by which solid waste, or materials that would otherwise become solid waste, are collected, separated, or processed and reused or returned to use in the form of raw materials or intermediate or final products. Such raw materials or intermediate or final products include, but are not limited to, crude oil, fuels, and fuel substitutes.

Despite Defendants' representations, the Products are not made of recyclable material. The Products are made from low-density polyethylene and are not recyclable so they can't be recycled at any recycling facilities. Therefore, the Products are not suitable for putting recyclable waste in them because the bags themselves are not recyclable.

When the Products are delivered by waste haulers to a disposal facility the bags and all of the otherwise recyclable items contained within them are not delivered to a recycling facility but are treated as regular solid waste materials.

Waste disposal facilities do not recycle either the Products or the recyclable materials contained in them.

The otherwise recyclable items (like cardboard, glass, aluminum, etc.) placed into the Products by consumers who are trying to recycle those items ultimately end up in landfills or incinerators and are not recycled.

CLASS ACTION ALLEGATIONS

Plaintiffs hereby incorporate by reference and re-allege herein the allegations contained in all preceding paragraphs of this Complaint.

Plaintiffs bring this action as a class action pursuant to 735 ILCS 5/2-801.

Plaintiffs seek to represent the following class, defined as: During the fullest period allowed by law, all persons in the United States who purchased Hefty Recycling Bags or Great Value Recycling Bags within the United States (the "Class").

Excluded from the Classes are persons who made such purchases for purpose of resale, all Court personnel involved in the handling of this case, Defendants, their respective officers, directors and employees, and any entity that has a controlling interest in Defendants.

Plaintiffs reserve the right to modify the Class, as appropriate based on further investigation and discovery obtained in the case.

Certification of Plaintiffs' claims for class-wide treatment is appropriate because Plaintiffs can prove the elements of their claims on a class-wide basis using the same evidence as would be used to prove those elements in individual actions alleging the same claims.

Members of the Class are so numerous that their individual joinder herein is impracticable. On information and belief, members of the Class number in the tens of thousands.

Common questions of law and fact exist as to all Class members and predominate over questions affecting only individual Class members. These common legal and factual questions include, but are not limited to, the following:

- a. Whether Defendants made the "Recycling" misrepresentations;
- b. Whether Defendants promoted the Products with false and misleading statements of fact and material omissions;
- c. Whether Defendants' "Recycling" Representations are deceptive, unfair or misleading;
- d. Whether Defendants' actions and/or omissions violate the consumer protection statutes invoked below;
- e. Whether Defendants' conduct violates public policy;
- f. Whether Defendants' acts, omissions or misrepresentations of material facts constitute fraud;
- g. Whether Plaintiffs and putative members of the Classes have suffered an ascertainable loss of monies or property or other value as a result of Defendants' acts, omissions or misrepresentations of material facts;

- h. Whether Defendants were unjustly enriched at the expense of Plaintiffs and members of the putative Classes in connection with the Products;
- i. Whether Plaintiffs and members of the putative Classes are entitled to monetary damages and, if so, the nature of such relief; and
- j. Whether Plaintiffs and members of the putative Classes are entitled to equitable, declaratory or injunctive relief and, if so, the nature of such relief.

Plaintiffs are adequate representatives of the Class because their interests do not conflict with the interests of the Class members they seek to represent, they have retained competent counsel experienced in prosecuting class actions, and they intend to prosecute this action vigorously. The interests of Class members will be fairly and adequately protected by Plaintiffs and their counsel.

The class mechanism is superior to other available means for the fair and efficient adjudication of the claims of Class members. Each individual Class member may lack the resources to undergo the burden and expense of individual prosecution of the complex and extensive litigation necessary to establish Defendants' liability. Individualized litigation increases the delay and expense to all parties and multiplies the burden on the judicial system presented by the complex legal and factual issues of this case. Individualized litigation also presents a potential for inconsistent or contradictory judgments. In contrast, the class action device presents far fewer management difficulties and provides the benefits of single adjudication, economy of scale, and comprehensive supervision by a single court on the issue of Defendants' liability. Class treatment of the liability issues will ensure that all claims and claimants are before this Court for consistent adjudication of the liability issues.

CLAIMS FOR RELIEF

COUNT I

Violations of the Illinois Consumer Fraud and Deceptive Business Practices Act 815 Ill. Comp. Stat. §§ 505, *et seq.*

Plaintiffs repeat and reallege the allegations in the previous paragraphs as if fully set forth herein.

Plaintiffs bring this claim individually and on behalf of the Class.

The Illinois Consumer Fraud and Deceptive Business Practices Act (the “ICFA”), 815 ILCS 505/1, *et seq.*, prohibits the use of unfair or deceptive business practices in the conduct of trade or commerce. The ICFA is to be liberally construed to effectuate its purpose.

Plaintiffs and other members of the Class, as purchasers of the Products, are consumers within the meaning of the ICFA given that Defendants’ business activities involve trade or commerce, are addressed to the market generally and otherwise implicate consumer protection concerns.

Defendants knowingly concealed, suppressed, and consciously omitted material facts to Plaintiffs and other Class Members knowing that consumers would rely on the advertisements and packaging to purchase the Products.

Plaintiffs and the other Class Members reasonably relied upon Defendants’ representations and omissions.

Defendants’ conduct, as described herein, took place, in part, within the State of Illinois in that that is where the packing was created and disseminated from, and constitutes unfair or deceptive acts or practices in the course of trade and commerce, in violation of 815 ICFA 505/1, *et seq.*

Defendants violated the ICFA by, *inter alia*, representing that the Products have characteristics or benefits that they do not have. 815 ILCS § 505/2; 815 ILCS § 510/2(7).

Defendants advertised the Products with intent not to sell them as advertised, in violation of 815 ILCS § 505/2 and 815 ILCS § 510/2(9).

Defendants engaged in fraudulent and/or deceptive conduct which creates a likelihood of confusion or of misunderstanding in violation of 815 ILCS § 505/2; 815 ILCS § 510/2(3).

Defendants engaged in misleading and deceptive advertising that represented that the Products were for “Recycling.” Defendants chose to label the Products in this way to impact consumer choices and gain market dominance, as they are aware that all consumers who purchased the Products would be impacted by its omissions and would reasonably believe Defendants’ false and misleading “Recycling” representations and omissions.

Defendants intended that Plaintiffs and each of the other Class Members would reasonably rely upon the material omissions concerning the true nature of the Products.

Defendants’ concealment, omissions and other deceptive conduct were likely to deceive and cause misunderstanding and/or in fact caused Plaintiffs and each of the other Class Members to be deceived about the true nature of the Products.

As a direct and proximate result of Defendants’ violations of the ICFA, as set forth above, Plaintiffs and the other Class Members have suffered ascertainable loss of money caused by Defendants’ omissions.

Had they been aware of the true nature of the Products, Plaintiffs and Class Members either would have paid less for the Products or would not have purchased them at all.

Plaintiffs and the other Class Members are therefore entitled to relief, including restitution, actual damages, costs and attorney’s fees, under sections 815 ILCS 505/10a of the ICFA. Plaintiffs

and the Class Members are also entitled to injunctive relief, seeking an order enjoining Defendants' unfair and/or deceptive acts or practices.

COUNT II

Violations of the Illinois Uniform Deceptive Trade Practices Act

ILCS §§ 510/2, *et seq.*

Plaintiffs repeat and reallege the allegations in the previous paragraphs as if fully set forth herein.

Plaintiffs bring this claim individually and on behalf of the Nationwide Class.

Defendants constitute a "person" as defined by 815 ILCS §§ 510/1(5).

Defendants engaged in deceptive trade practices in the conduct of their business, in violation of 815 ILCS §§ 510/2(a), including:

- a. Defendants represented to Plaintiffs and the Class that the Products had approval or characteristics that they did not have;
- b. Defendants represented to Plaintiffs and the Class that the Products were of a particular standard, quality, or grade when they were actually of another;
- c. Defendants advertised to Plaintiffs and the Class goods with intent not to sell them as advertised;
- d. Defendants engaged in other fraudulent or deceptive conduct creating a likelihood of confusion or misunderstanding; and
- e. Defendants represented that consumers' purchases of the Products conferred or involved rights that the transactions did not have or involve.

The facts that Defendants misrepresented, concealed, suppressed, or omitted the "Recycling" representations and omissions as alleged above were material, in that such facts are

the type of information upon which a reasonable consumer is expected to rely in making a decision of whether to purchase Defendants' Products.

Defendants' misrepresentation, concealment, suppression, and omission of material facts as alleged above creates a likelihood of deception and was likely to deceive a consumer acting reasonably in the same circumstances.

Defendants' representations and omissions were material because they were likely to deceive reasonable consumers.

The above unfair and deceptive practices and acts by Defendants were immoral, unethical, oppressive, and unscrupulous. These acts caused substantial injury to Plaintiffs and other Class Members that they could not reasonably avoid; this substantial injury outweighed any benefits to consumers or to competition.

As a direct and proximate result of Defendants' deceptive acts and practices, Plaintiffs and the other Class Members have suffered and will continue to suffer injury, ascertainable losses of money or property, and monetary and non-monetary damages, including from not receiving the benefit of their bargain in purchasing Defendants' Products.

Plaintiffs and the other Class Members seek all monetary and non-monetary relief allowed by law, including injunctive relief and reasonable attorney's fees.

COUNT III

Fraud

Plaintiffs repeat and reallege the allegations in the previous paragraphs as if fully set forth herein.

Plaintiffs bring this cause of action on behalf of themselves and the Class.

As alleged herein, Defendants knowingly made material misrepresentations and omissions regarding the Products on the Products' labeling and packaging in the Products' advertisements, and/or on its website, specifically the "Recycling" representations and omissions alleged more fully herein.

Defendants made these material "Recycling" representations and omissions in order to induce Plaintiffs and Class Members to purchase the Products.

Defendants knew the "Recycling" representations and omissions regarding the Products were false and misleading but nevertheless made such representations through the marketing, advertising and on the Products' labeling.

In reliance on these "Recycling" representations and omissions, Plaintiffs and the Class Members were induced to, and did, pay monies to purchase the Products.

Had Plaintiffs and Class Members known the truth about the Products, they would not have purchased the Products.

As a proximate result of the fraudulent conduct of Defendants, Plaintiffs and Class Members paid monies to Defendants, through their regular retail sales channels, to which Defendants are not entitled, and have been damaged in an amount to be proven at trial.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs, individually and on behalf of all others similarly situated members of the Class, pray for relief and judgment, including entry of an order:

- A. Declaring that this action is properly maintained as a class action, certifying the proposed Class, appointing Plaintiffs as Class Representatives and appointing Plaintiffs' counsel as Class Counsel;
- B. Directing that Defendants bear the costs of any notice sent to the Class;
- C. Declaring that Defendants must disgorge, for the benefit of the Class, all or part of the ill-gotten profits they received from the sale of the Products, or order Defendants to make full restitution to Plaintiffs and Class Members;
- D. Awarding restitution and other appropriate equitable relief;
- E. Granting an injunction against Defendants to enjoin them from conducting their business through the unlawful, unfair and fraudulent acts or practices set forth herein;
- F. Granting an Order requiring Defendants to fully and appropriately recall the Products and/or to remove the claims on its website and elsewhere, including the "Recyclable" representations regarding the Products;
- G. Ordering a jury trial and damages according to proof;
- H. Enjoining Defendants from continuing to engage in the unlawful and unfair business acts and practices as alleged herein;
- I. Awarding attorneys' fees and litigation costs to Plaintiffs and members of the Class;
- J. Awarding civil penalties, prejudgment interest and punitive damages as permitted by law; and
- K. Ordering such other and further relief as the Court deems just and proper.

JURY DEMAND

Plaintiffs demand a trial by jury of all claims in this Complaint so triable.

Dated: July 14, 2023

s/ Gary M. Klinger

Gary M. Klinger (6303726)
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* To be admitted pursuant to Illinois Supreme Court Rule 707