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SUPERIOR COURT OF CALIFORNIA

COUNTY OF YOLO

THE PEOPLE OF THE STATE OF CALIFORNIA, Plaintiff, v. WALMART STORES, INC., a Delaware corporation, Defendant.	Case No. ~~CV 2021~~CV2021-1847 COMPLAINT FOR INJUNCTIVE RELIEF, CIVIL PENALTIES, AND OTHER EQUITABLE RELIEF (Bus. & Prof. Code, § 17200 et seq.) *Exempt from fees per Gov. Code, § 6103*

Plaintiff, THE PEOPLE OF THE STATE OF CALIFORNIA (hereinafter "Plaintiff" or "the People"), hereby allege the following upon information and belief.

PARTIES

1. Plaintiff brings this action by and through Jeff W. Reisig, District Attorney of Yolo County.

2. Plaintiff, acting to protect the public from unlawful and unfair business practices, brings this civil action in the name of the People of the State of California pursuant to Business and Professions Code section 17200 et seq.

3. Defendant WALMART STORES, INC. (hereinafter "Walmart" or "Defendant"), is a Delaware corporation with its principal place of business in Bentonville, Arkansas. At all times

relevant, Defendant owned and operated four (4) retail store locations in and throughout Yolo County, California.

4. When reference is made herein to any act or omission of Defendant, such allegation shall include the acts or omissions of Defendant's officers, agents and employees, and that each of them engaged in said acts or omissions.

JURISDICTION AND VENUE

5. This Court has jurisdiction over Defendant as all causes of action asserted in this Complaint arise out of Defendant's conduct in Yolo County, California.

6. Venue is proper in this Court under Code of Civil Procedure section 395.5 as all unlawful acts alleged herein were committed in Yolo County, California.

APPLICABLE LAW

7. Following a declared State of Emergency due to the Coronavirus pandemic, on or about April 3, 2020, Governor Gavin Newsom issued and signed Executive Order N-44-20 (hereafter "Executive Order") concerning price gouging throughout the State of California.

8. The Executive Order went into effect on April 4, 2020 and, in part, prohibits the sale or offer of sale of certain goods at a price greater than 10% above the price charged by that seller on February 4, 2020.

9. Food items fall within the Executive Order's purview.

10. There are exemptions, however, to the Executive Order's limitations. For example, a price increase greater than 10% is not unlawful if the seller can prove the increase was directly attributable to additional costs imposed on the seller by suppliers of the item, and the price is no more than 10% greater than the total of the cost to the seller plus the customary markup applied on the applicable February date.

11. Each sale or offer to sell in violation of the Executive Order constitutes a separate violation and, as made clear by the Executive Order's terms, each violation is an unlawful business practice under Business and Professions Code section 17200 et seq.

12. Similarly, Penal Code section 396 prohibits price gouging and provides that upon a declared state of emergency it is unlawful to sell or offer to sell consumer food items at a price of

more than 10% greater than the price charged by that person for those food items immediately prior to the proclamation or declaration of emergency, or prior to a date set in the proclamation or declaration. (Pen. Code, § 396(b).)

13. Penal Code section 396 allows for certain exceptions: the higher price is not unlawful if the seller can prove it is directly attributable to additional costs imposed by the supplier of that item and the price is no more than 10% greater than the total cost to the seller plus the seller's customary markup in the usual course of business immediately prior to the state or local emergency. (*Ibid*.)

GENERAL ALLEGATIONS

14. Defendant's retail locations offer grocery items for sale, with Defendant's own brand (known as "Great Value") of eggs regularly stocked and sold at its locations. Walmart sells its Great Value brand eggs in units of 12, 18, 36 and 60-count large eggs as well as 12-count extra-large eggs (hereinafter "Products").

15. The Products are sold at each of Defendant's four store locations in Yolo County.

16. An investigation, which encompassed the time frame of April 4, 2020 to July 3, 2020, revealed that on numerous occasions between May 1, 2020 and June 9, 2020, at all four store locations in Yolo County, Defendant sold its Products at prices that exceeded the limitations imposed by Executive Order N-44-20 and Penal Code section 396.

FIRST CAUSE OF ACTION

Violations of Business and Professions Code section 17200 et seq.

(Unfair Competition Law)

17. The People restate and incorporate all previous paragraphs as though fully set forth herein.

18. Business and Professions Code section 17200 prohibits unfair competition—meaning any unlawful, unfair, or fraudulent business act or practice.

19. A violation of the Executive Order is enforceable under Business and Professions Code section 17200. (Governor's Exec. Order No. N-44-20, (April 4, 2020) paragraph 4.)

/ / /

20. At all relevant times herein, and within four (4) years prior to the filing of this Complaint, Defendant sold its Products in violation of Executive Order N-44-20 and Penal Code section 396 which constitutes unfair competition within the meaning of Business and Professions Code section 17200.

21. Each and every separate act in violation of these provisions constitutes a separate unlawful or unfair "business act or practice" of Business and Professions Code section 17200.

22. Based on the above, the People request injunctive relief against Defendant under Business and Professions Code section 17203 to prevent Defendant from engaging in the unlawful acts or practices alleged in this Complaint, and civil penalties against Defendant under Business and Professions Code section 17206, as set forth in the People's prayer for relief.

PRAYER

WHEREFORE, the People respectfully request the following relief:

1. That Defendant be restrained and enjoined from engaging in unfair competition as defined in Business and Professions Code section 17200, including, but not limited to, the acts alleged in this Complaint, under the authority of Business and Professions Code section 17203;

2. That pursuant to Business and Professions Code section 17206, Defendant be assessed a civil penalty of TWO THOUSAND FIVE HUNDRED DOLLARS ($2,500.00) for each violation according to proof;

3. That restitution be recovered in an amount to be determined;

4. That the People recover its costs of suit, including costs of investigation;

5. That the People receive all other relief to which they are legally entitled; and

6. That the Court award such other relief that it deems just, proper, and equitable.

Dated: 10/5/2021

Respectfully submitted,

JEFF W. REISIG
DISTRICT ATTORNEY

By: LARRY BARLLY
Deputy District Attorney