

**COMMONWEALTH OF KENTUCKY
BOONE COUNTY CIRCUIT COURT, CIVIL DIVISION
CASE NO. ___-CI-_____
DIVISION _____**

NORMAN HUSAR, individually and on
behalf of all others similarly situated,
% DannLaw
15000 Madison Avenue
Lakewood, OH 44107

PLAINTIFF(S)

**CLASS ACTION COMPLAINT FOR
MONEY**

v.

DOLLAR GENERAL CORPORATION
% Corporation Service Company, Registered
Agent
421 W. Main Street
Frankfort, KY 40601
SERVED BY: CERTIFIED MAIL

DEFENDANT(S)

AND

DOLGENCORP, LLP
% Corporation Service Company, Registered
Agent
421 W. Main Street
Frankfort, KY 40601
SERVED BY: CERTIFIED MAIL

Plaintiff Norman Husar (“Plaintiff”), individually and on behalf of all others similarly situated, through his attorneys, brings this action against Defendants Dollar General Corporation (“DGC”) and DolgenCorp, LLC d/b/a Dollar General (“DG”, together with “DGC”, the “Defendants”), and alleges upon personal knowledge as to his own actions and experiences, and

upon investigation, information and belief as to all others, as follows:

NATURE OF THE ACTION

1. This is a consumer protection class action against the Defendants arising out of the Defendants' policies and procedures of regularly charging the 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 Dollar General stores across Kentucky.

2. This class action arises from Defendants' regular practice of charging customers a higher price on various items than the price advertised on its shelves in violation of the Kentucky Consumer Protection Act, KRS 367.100, *et seq.*

PARTIES, JURISDICTION, AND VENUE

3. Plaintiff Norman Husar ("Plaintiff") is a natural person who resides in the City of Cincinnati, County of Hamilton, State of Ohio.

4. Defendant Dollar General Corporation ("DGC") is a foreign corporation organized under the laws of the State of Tennessee with its principal place of business located at 100 Mission Ridge, Goodlettsville, TN 37072.

5. Defendant Dolgencorp, LLC ("DG") is a foreign limited liability company organized under the laws of the State of Tennessee with its principal place of business located at 100 Mission Ridge, Goodlettsville, TN 37072.

6. This Court is the proper venue and has jurisdiction over the Parties as the Plaintiff transacted business with the Defendants in this County, the Defendant operates franchise locations across the County and Commonwealth, and Boone County is where all the issues arose related to this matter, and the minimum jurisdiction has been met.

FACT RELATED TO DOLLAR GENERAL

7. Plaintiff and all others similarly situated are persons who shop at Dollar General stores in Kentucky

8. The Defendants operate Dollar General which are dollar stores that offer a variety of inexpensive merchandise, including home products, seasonal products, consumables, and apparel. (“Dollar General”) 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

9. 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

10. As of March 2022, the Defendants owned and operated approximately Six Hundred Fifty-Five (655) Dollar General stores in Kentucky with more locations scheduled to open.³

FACTS RELATED TO PLAINTIFF’S TRANSACTIONS

11. The Plaintiff incorporates and restates the allegations contained in Paragraphs 1 through 10 as if fully set forth herein.

¹ See <https://marketrealist.com/2017/04/dollar-general-why-small-format-stores-are-key/> (last visited December 4, 2022)

² See <https://www.cnn.com/2019/07/19/business/dollar-general-opposition> (last visited December 4, 2022)

³ See

<https://www.statista.com/statistics/1121086/number-of-dollar-general-stores-in-the-united-states-by-state/> (last visited December 4, 2022)

12. The Plaintiff is a customer of the Defendants' stores throughout Ohio and the Northern Kentucky area, including those in Boone County.

13. While shopping at various Dollar General locations between early July 2022 and early September 2022, the Plaintiff noticed discrepancies between the prices of the merchandise advertised on the shelves and what he was charged at the checkout.

14. When there was a price discrepancy, the Plaintiff was usually charged and paid more than the advertised price.

15. As a result of these discrepancies, the Plaintiff began to track his purchases.

16. In addition to tracking his purchases, the Plaintiff also began to document the advertised/shelf prices to compare them to what he was charged and paid at checkout.

17. Between July 2022 and early September 2022, the Plaintiff made purchases at various DG Store Locations located in Lorain County, Ohio and Cuyahoga County, Ohio including:

- DG Store #04686 located at 1651 Cooper Foster Park Rd, Amherst, OH 44001;
- DG Store #07807 located at 425 W 4th St, Lorain, OH 44052-1644;
- DG Store #12868 located at 2540 Leavitt Road, Lorain, OH 44052-4142;
- DG Store #15058 at 7628 S. Leavitt Road, Amherst, OH 44001;
- DG Store #15242 located at 5248 Colorado Avenue, Sheffield Village, OH 44054-2335;
- DG Store #17110 located at 3785 Clague Rd, North Olmsted, OH 44070-2302
- DG Store #20045 located at 12526 Bellaire Rd, Cleveland, OH 44135

18. Between July 2022 and early September 2022, the Plaintiff made purchases at the stores noted where the following price discrepancies occurred:

19. In July and August 2022, Plaintiff made several purchases at Dollar General stores in Lorain County and Cuyahoga County. The discrepancies are outlined below:

Date of Purchase	Store Number	Brand	Product	Price of Shelf/Sign	Register Price	Discrepancy
07/03/22	12868	Pepsi	Mountain Dew 2L	\$1.90	\$2.20	\$0.30
07/06/22	15252	Coca-Cola	Coke Zero 16 oz	\$1.00	\$1.25	\$0.25
07/10/22	07807	DG Health	Anti-Diarrheal	\$3.50	\$3.95	\$0.45
07/14/22	07807	CRC Brakleen	Brake Parts Cleaner 14 oz	\$4.45	\$5.50	\$1.05
07/18/22	15252	Eveready	Gold Battery AAA-8	\$4.95	\$6.00	\$1.05
07/23/22	04686	Energizer	Max Battery D-2	\$4.65	\$5.50	\$0.85
07/28/22	17110	Coca-Cola	Cherry Coke 16 oz	\$1.00	\$1.25	\$0.25
07/31/22	07807	Wrigley's	Extra Gum Slim Pack	\$1.00	\$1.35	\$0.35
08/01/22	15058	Coca-Cola	Coke de Mexico	\$1.25	\$2.00	\$0.75
08/01/22	15252	Raid	Aerosol A&R 17.5 oz	\$4.75	\$5.25	\$0.50
08/05/22	20045	Raid	Ant Baits 4 ct	\$4.00	\$4.50	\$0.50
08/05/22	20045	Coca-Cola	Sprite 16 oz	\$1.00	\$1.25	\$0.25
08/09/22	07807	Santitas	Tortilla Chips	\$2.29	\$2.45	\$0.16
08/27/22	07807	Energizer	9V Batteries	\$4.65	\$4.95	\$0.30
09/01/22	07807	Crystal Valley	Water	\$0.85	\$0.95	\$0.10
09/01/22	07807	Crystal Valley	Water	\$1.50	\$1.65	\$0.15

See also Exhibit 1 to Complaint - Receipts and Proof of Purchase.

20. Based on the allegations in Paragraph 19 above and Exhibit 1 between July 3, 2022 and September 1, 2022 the Plaintiff was overcharged at least \$7.26.

21. In addition to the purchases in Ohio described above, on November 6, 2022 the Plaintiff made a purchase with discrepancy at the Defendants' store, Dollar General #01357 located at 832 Heights Blvd. Florence, KY 41042-1415. These purchases are summarized below:

Date of Purchase	Store Number	Brand	Product	Price of Shelf/Sign	Register Price	Discrepancy
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Purchase	Number			Shelf/Sign	Price	
12/04/2022	01357	Raid	Ant & Roach Spray	\$4.85	\$5.25	\$0.40

See Exhibit 2 - November 6 Receipt and Proof of Purchase.

22. Based on the allegations above herein and as demonstrated by Exhibits 1 and 2, the Defendants used the same procedures that it employed in charging higher prices than advertised to the Plaintiff when selling the same and/or similar merchandise to numerous other Kentucky consumers.

23. In the two (2) year period before the Complaint was filed the Defendants charged prices that were higher than advertised that were the same or similar to the advertisements described, *supra*, to numerous Kentucky consumers.

24. Based on the allegations herein, *supra*, and demonstrated by Exhibits 1 and 2, It is the Defendants' policy and practice to charge higher prices at the register for merchandise than the price advertised on the unit price labels for the same merchandise on the shelves in the Defendants' stores.

CLASS ACTION ALLEGATIONS

25. **Class Definition:** Plaintiff brings this action pursuant to CR 23.01 and CR 23.02 on behalf of a class of similarly situated individuals and entities defined as follows:

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

26. **Subclass Definition:** The Plaintiff also brings this action on behalf of a Subclass of similarly situated individuals and entitled defined as follows:

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

27. Excluded from the Class and Subclass are (1) the Defendants, Defendants' agents, subsidiaries, parents, successors, predecessors, and any entity in which the Defendant or its

parent(s) have a controlling interest, and those entities' current and former employees, officers, and directors; (2) the Judge to whom this case is assigned and the Judge's immediate family; (3) any person who executes and files a timely request for exclusion from the Class and/or Subclass; (4) any person(s) who have had their claims in this matter finally adjudicated and/or otherwise released; and (5) the legal representatives, successors and assigns of any excluded parties.

28. **Numerosity and Ascertainability:** Upon information and belief the Class and Subclass (the "Classes") are each composed of more than forty (40) members, such that the Classes are so numerous that joinder of all members is impractical. This conclusion is reasonable given that the Defendants operate 655 stores across Kentucky as of March 2022 as noted above and the number of customers at each of the Defendants' stores on a daily basis is likely dozens, if not hundreds or thousands of consumers.

29. **Commonality and Predominance:** There are questions of law and fact common to the proposed Classes that predominate over any individual questions. These questions of law and fact include, but are not limited to:

- a. Whether the shelf price labels are advertisements under the applicable regulations;
- b. Whether the shelf price labels are advertisements as defined by the KCPA;
- c. Whether any or all of the purchases made by the Plaintiff and members of the Classes were consumer transactions as defined by the KCPA;
- d. Whether the mis-priced shelf labels violate the KCPA;
- e. Whether the Plaintiff and/or members of the putative Classes suffered an ascertainable loss as a result of the Defendants' unlawful practices;
- f. Whether by charging consumers in Kentucky more than the advertised shelf price at checkout, the Defendants committed a deceptive act as defined by the CSPA;

30. **Typicality:** Plaintiff's claims are typical of the claims of the Classes. Plaintiff and the putative Class Members were all subjected to and affected by a uniform course of conduct; specifically, the Defendants' pattern and practice of charging Ohio consumers a higher price at the register than the posted price on the shelf for various pieces of merchandise.

31. **Adequacy:** The Plaintiff will adequately represent the interests of the Classes. The Plaintiff does not have any interests adverse to the Classes. Plaintiff's 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.

32. **Superiority:** A class action is the superior method for the quick and efficient adjudication of this controversy since joinder of all members is impracticable. While the economic damages suffered by the individual members of the Classes are significant, the amount is modest compared to the expense and burden of individual litigation. The questions of law or fact common to the members of the Classes predominate over any question affecting only individual members. A class action will cause an orderly and expeditious administration of the claims of the Classes, and will foster economies of time, effort, and expense. Given the relatively small amount of damages available to Plaintiff and members of the Classes, adjudication on a classwide basis would provide members of the Classes with a remedy that they may be unlikely to pursue individually. Plaintiff does not anticipate any difficulty in the management of this litigation.

33. The Plaintiff has retained the services of attorneys who are experienced and capable in prosecuting class action lawsuits. Neither the Plaintiff nor Plaintiff's Counsel have any interests which might prevent them from vigorously pursuing this action.

CLASS CLAIMS

**COUNT ONE: VIOLATION OF KRS 367.170, et seq.
(On behalf of the Plaintiff and Classes)**

34. Plaintiff restates and incorporates all of his allegations contained in paragraphs 1 through 33 in their entirety.

35. The Plaintiff and the Class Members are each a “person” as the meaning of KRS 367.110(1).

36. The Defendants’ business(es) as described herein, *supra*, is “commerce” within the meaning of KRS 367.110(2) as a distribution of a service and intangible personal property and any other article and/or thing of value which includes commerce directly and/or indirectly affecting the people of this Commonwealth.

37. KRS 367.170(1) states that any unfair, false, misleading or deceptive act or practice in the conduct of any trade or commerce are hereby declared unlawful.

38. KRS 367.175(1) states every contract, combination in the form of trust and otherwise, or conspiracy of trade of commerce in this Commonwealth shall be unlawful.

39. As described herein, *supra*, and demonstrated by Exhibit 2, the Defendants’ actions in charging a higher price for merchandise than the price as advertised on the shelf price labels for the same merchandise are deceptive acts under KRS 367.140(1).

40. The Defendants’ actions described herein, *supra*, violate the Kentucky Consumer Protection Act and the Plaintiff and Class members are entitled to an award of statutory damages as applicable, actual damages in a total amount to be determined at trial, punitive damages as applicable in a total amount to be determined at trial, and an award of reasonable attorneys’ fees and costs.

**COUNT TWO: UNJUST ENRICHMENT
(On behalf of the Plaintiff and Classes)**

41. Plaintiff restates and incorporates all of his allegations contained in paragraphs 1 through 40 in their entirety.

42. Based on the allegations herein, *supra*, the Defendants have engaged in a pattern and practice of overcharging the Plaintiff and members of the Classes by at least \$0.40 and collected monies from the Plaintiff and members of the Classes which the Defendants knew or should have known that the Defendants had no contractual or legal right to collect.

43. By receiving payments from the Plaintiff and members of the Classes on products that the Defendants overcharged, the Defendants received a benefit conferred upon them at the expense of the Plaintiff and members of the Classes.

44. Retaining the overcharged payments made by the Plaintiff and the members of the Classes was a resulting appreciation of benefit by the Defendants.

45. The Defendants inequitably retained the benefit of the overcharged payments made by the Plaintiff and members of the classes without any material benefit for which the payments were made and bargained for by the Plaintiff and members of the Classes.

46. The Defendants accepted and/or retained the overcharged payments made by the Plaintiff and members of the Classes with full knowledge and awareness that because of the Defendants' unjust and inequitable actions, Plaintiff and members of the Class are entitled to refunds for tuition, fees, and/or other monies paid.

47. Retaining the non-gratuitous benefits made to the Defendants by the Plaintiff and the members of the Classes under these circumstances made the Defendants' retention of the overcharged payments unjust and inequitable.

48. Because the Defendants retention of the overcharged payments made by the Plaintiff and members of the Classes are unjust and inequitable, the Plaintiff and members of the

Classes are entitled an award of actual damages, compensatory damages, and punitive damages in amounts to be determined at trial.

**COUNT THREE: VIOLATIONS OF THE CSPA, R.C. 1345.01, et seq.
(On behalf of Plaintiff individually)**

49. Plaintiff restates and incorporates all of his allegations contained in paragraphs 1 through 49 in their entirety.

50. The Plaintiff is a “person” as the meaning of KRS 367.110(1).

51. The Defendants’ business(es) as described herein, *supra*, is “commerce” within the meaning of KRS 367.110(2) as a distribution of a service and intangible personal property and any other article and/or thing of value which includes commerce directly and/or indirectly affecting the people of this Commonwealth.

52. KRS 367.170(1) states that any unfair, false, misleading or deceptive act or practice in the conduct of any trade or commerce are hereby declared unlawful.

53. KRS 367.175(1) states every contract, combination in the form of trust and otherwise, or conspiracy of trade of commerce in this Commonwealth shall be unlawful.

54. As described herein, *supra*, and demonstrated by Exhibit 2, the Defendants’ actions in charging a higher price for merchandise than the price as advertised on the shelf price labels for the same merchandise are deceptive acts under KRS 367.140(1).

55. The Defendants’ actions described herein, *supra*, violate the Kentucky Consumer Protection Act and the Plaintiff is entitled to an award of statutory damages as applicable, actual damages of at least \$0.40 and in a total amount to be determined at trial, punitive damages as applicable in a total amount to be determined at trial, and an award of reasonable attorneys’ fees and costs.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Norman Husar, on behalf of himself and those similarly situated, respectfully requests that that this Court grants judgment against Defendants Dollar General Corporation and Dolgencorp, LLC and issue an Order:

- A. Finding that this action satisfies the prerequisites for Finding that this action satisfies the prerequisites for maintenance as a class action and certifying the Class and Subclass, each as defined, *supra*;
- B. Designating the Plaintiff as a representative of the Class and Subclass, and his undersigned counsel as Class Counsel;
- C. Awarding the Plaintiff, Class and Subclass their actual damages;
- D. Awarding the Plaintiff, Class and Subclass their statutory damages, as applicable;
- E. Awarding the Plaintiff his statutory non-economic damages for the violations of the KCPA, as applicable;
- F. Awarding the Plaintiff, Class and Subclass punitive damages, as applicable;
- G. Awarding the Plaintiff, Class and Subclass pre-judgment and post-judgment interest, if applicable,
- H. Awarding the Plaintiff, Class and Subclass their reasonable attorneys' fees and costs, including interest thereon, as allowed or required by law; and,
- I. Granting all such further and other relief as this Court deems just and appropriate.

Respectfully submitted,

/s/Brian D. Flick, Esq.

Brian D. Flick (0095244)

DANN LAW

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Counsel for Plaintiff and the Putative Classes

TRIAL BY JURY

Pursuant to CR 38.02, Plaintiff Norman Husar, individually and on behalf of all others similarly situated, does hereby request a Trial by Jury.

Respectfully submitted,

/s/Brian D. Flick, Esq.

Brian D. Flick, Esq. #0095244

DannLaw

Counsel for Plaintiff and the Putative Classes

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Presiding Judge: HON. JAMES R. SCHRAND (654281)

Package : 000015 of 000072

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Dollar General Charges More at Checkout Than Advertised Shelf Price, Class Action Claims](#)
