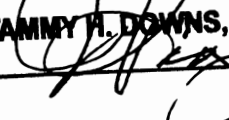


UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
JONESBORO DIVISION

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT ARKANSAS

MAR 30 2022

TAMMY H. DOWNS, CLERK
By:  DEP. CLERK

KAREN SHARP,
individually and on behalf all others similarly
situated,

Plaintiff,

v.

FAMILY DOLLAR
10401 Monroe Road,
Charlotte, NC 28201

SERVE REGISTERED AGENT

and

DOLLAR TREE, INC.
500 Volvo Parkway
Chesapeake, VA 23320

SERVE REGISTERED AGENT

Defendants.

CASE NO. 3:22cv90-BSM

COMPLAINT - CLASS ACTION

JURY TRIAL DEMANDED

This case assigned to District Judge 

and to Magistrate Judge 

Plaintiff KAREN SHARP, on behalf of herself and all others similarly situated, brings this action against Defendants FAMILY DOLLAR (“Family Dollar”) and DOLLAR TREE, INC. (“Dollar Tree”) (collectively, “Defendants”), to obtain damages, restitution, and injunctive relief for the Class, as defined below, from the Defendants. Plaintiff Sharp makes the following allegations upon information and belief, except as to her own actions, the investigation of her counsel, and the facts that are a matter of public record.

NATURE OF THE CASE

1. This class action arises out of the recently disclosed rodent infestation of a distribution center operated by Defendant Family Dollar in West Memphis, Arkansas. The warehouse stored and shipped products, including products that were intended for human and animal consumption. As a result of the rodent infestation, Plaintiff and thousands of Class Members who purchased these products were subjected to actual harm.

2. The U.S. Food and Drug Administration (“FDA”) announced on February 18, 2022, that Family Dollar stores in six states may have received products from a distribution center in West Memphis, Arkansas that were contaminated by a rodent infestation. The agency warning includes items purchased since January of 2021, such as food for herself and her family, cosmetics, vitamins and dietary supplements, over-the-counter medications, surgical masks, feminine hygiene products, and contact lens cleaning solutions, and toiletry items among others. The FDA is asking Family Dollar customers to contact the company if they purchased any of these products. The agency also recommends discarding any medical items immediately and is working with the store chain to begin a product recall.

3. Family Dollar has issued a voluntary recall which covered numerous FDA regulated products, including medicine, pet food and cosmetics, that were sold between January 2021 and February 2022 in Family Dollar stores in Alabama, Arkansas, Louisiana, Mississippi, Missouri and Tennessee (the “Recalled Products”).

4. The use or consumption of affected products presents a risk of illness due to the potential presence of *Salmonella*, an organism which can cause serious and sometimes fatal infections in infants, young children, frail or elderly people, pregnant persons, persons with pre-existent pathology (e.g., patients with cancer undergoing chemotherapy treatments, organ

transplant recipient, etc.) and others with weakened immune systems. Healthy persons infected with *Salmonella* often experience fever, diarrhea (which may be bloody), nausea, vomiting and abdominal pain. In rare circumstances, infection with *Salmonella* can result in the organism getting into the bloodstream and producing more severe illnesses such as arterial infections (*i.e.*, infected aneurysms), endocarditis and arthritis.

5. Accordingly, Plaintiff, individually and on behalf of a Class of all persons similarly situated, brings claims for breach of the implied warranty of merchantability, unjust enrichment, and violation of the Arkansas Deceptive Trade Practice Act, Ark. Code Ann. § 4-88-101, *et seq.*

JURISDICTION AND VENUE

6. This Court has subject matter jurisdiction over this action under the Class Action Fairness Act, 28 U.S.C. § 1332(d), because this is a class action wherein the amount in controversy exceeds the sum or value of \$5,000,000, exclusive of interest and costs, there are more than 100 members in the proposed class, and at least one member of the class is a citizen of a state different from a Defendant.

7. The Court has personal jurisdiction over Defendants Dollar Tree and Family Dollar because Dollar Tree, a wholly owned subsidiary of Dollar Tree, does business and/or transacts business in this District.

8. Venue is proper in this District under 28 U.S.C. § 1391(b)(2) because Plaintiff Sharp resides in this District and a substantial part of the events or omissions giving rise to Plaintiff's claims occurred in this District.

PARTIES

9. Plaintiff Sharp ("Plaintiff" or "Ms. Sharp") is and at all times mentioned herein an individual citizen and resident of Blytheville (Mississippi County), Arkansas. Ms. Sharp purchased

one or more of the Recalled Products from Family Dollar stores in and around the Blytheville, Arkansas area.

10. Defendant Family Dollar maintains its company offices in Charlotte, NC at 10401 Monroe Road, Charlotte, NC 28201. Family Dollar is a wholly owned subsidiary of Defendant Dollar Tree.

11. Defendant Dollar Tree is a Virginia corporation whose corporate offices are located at 500 Volvo Parkway, Chesapeake, VA 23320.

STATEMENT OF COMMON FACTS

12. Family Dollar is a wholly owned subsidiary of Dollar Tree.

13. Dollar Tree is a Fortune 200 company and a leading operator of discount variety stores in North America for more than thirty years. The company operates more than 15,500 stores across the 48 contiguous states and five Canadian provinces, supported by a coast-to-coast logistics network and more than 193,000 associates.

14. Family Dollar operates a distribution center in West Memphis, Arkansas (the “Distribution Center”). The Distribution Center distributed products to 404 stores across six states – Alabama, Arkansas, Louisiana, Missouri, Mississippi and Tennessee.

15. Records obtained through the Arkansas Freedom of Information Act show that the Distribution Center has been inspected by the Arkansas Department of Health (“ADH”) at least five times since March 3, 2021.

16. During a site inspection on March 3, 2021, state inspectors reported seeing significant rodent activity where human and pet food is stored. “I observed live and dead rodents in this area. I observed products that had been contaminated by rodents,” the inspector wrote. “This product was disposed on site.”

17. Health officials at the time reported that staff at the distribution center said they knew about the rodent issue and that it had been going on for about 60 days. The inspection documents showed that the facility claimed to have hired a pest control company that would service the facility three times weekly to get the issue under control. The documents also indicated that any affected merchandise would not go to stores.

18. “The firm has a policy which states if product has any evidence of pest activity, gnawing, droppings, etc., the entire pallet is disposed in the onsite compacter,” the report shows.

19. During the 2021 inspections, which took place on March 3, March 19, April 2, September 22, records showed that Arkansas inspectors found rodents where human and pet food is stored. In September’s inspection, documents show the state found a rodent in a case of chips but noted the facility had made vast improvements in sanitation and pest control.

20. In an inspection on January 3, 2022, health inspectors reported effective measures were not being taken to stop the pest problem. The state reported finding significant rodent activity where human and pet food is stored, including a dead roof rat in one of the facility’s aisles.

21. Arkansas health officials notified the Food and Drug Administration (“FDA”) about the problem in October of 2021, after four of the state’s inspections.

22. In January of 2022, the FDA was alerted to unsanitary conditions at the Family Dollar distribution center in West Memphis, Arkansas by a consumer complaint.

23. FDA inspectors concluded their investigation on Feb. 11, 2022, after finding “live rodents, dead rodents in various states of decay, rodent feces and urine, evidence of gnawing, nesting and rodent odors throughout the facility, dead birds and bird droppings” at the center.

24. More than 1,100 dead rodents were found after the center was fumigated.

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