

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI

Federal Trade Commission,

Plaintiff,

v.

American Screening, LLC, a Louisiana limited liability company;

Ron Kilgarlin Jr., individually and as an officer of American Screening, LLC; and

Shawn Kilgarlin, individually and as an officer of American Screening, LLC

Defendants.

Case No. 4:20-cv-1021

**COMPLAINT FOR  
PERMANENT INJUNCTION  
AND OTHER EQUITABLE  
RELIEF**

Plaintiff, the Federal Trade Commission (“FTC” or “Commission”), for its Complaint alleges:

1. The FTC brings this action under Sections 13(b) and 19 of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. §§ 53(b), 57b; and the Mail, Internet, or Telephone Order Merchandise Rule (“MITOR”), 16 C.F.R. Part 435, to obtain permanent injunctive relief, restitution, rescission or reformation of contracts, the refund of money or return of property, the payment of damages, and other equitable relief for Defendants’ acts or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), and in violation of MITOR.

**JURISDICTION AND VENUE**

2. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331, 1337(a), and 1345.

3. Venue is proper in this District under 28 U.S.C. § 1391 (b)(1-2), and 15 U.S.C. § 53(b).

**PLAINTIFF**

4. The FTC is an independent agency of the United States Government created by statute. 15 U.S.C. §§ 41-58. The FTC enforces Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), which prohibits unfair or deceptive acts or practices in or affecting commerce. The FTC also enforces MITOR, 16 C.F.R. Part 435, which requires mail-, Internet-, or phone-based sellers to have a reasonable basis for advertised shipping times, and when sellers cannot meet promised shipping times, or in the absence of any promised shipping time, ship within 30 days, to provide buyers with the option to consent to a delay in shipping or to cancel their orders and receive a prompt refund.

5. The FTC is authorized to initiate federal district court proceedings, by its own attorneys, to enjoin violations of the FTC Act and MITOR, and to secure such equitable relief as may be appropriate in each case, including rescission or reformation of contracts, restitution, the refund of monies paid, and the disgorgement of ill-gotten monies. 15 U.S.C. §§ 53(b), 57b; 16 C.F.R. Part 435.

**DEFENDANTS**

6. Defendant American Screening, LLC (“American Screening”) is a member-managed limited liability company with its distribution center in St. Louis, Missouri. American Screening transacts or has transacted business in this District and throughout the United States. In addition, one or more consumers who were injured by the Defendants’ conduct set forth below reside in this District.

7. Defendant Ron Kilgarlin, Jr., is the founder, sole member, manager, and purported CEO of American Screening, which has 30 employees. At all times material to this Complaint, acting alone or in concert with others, he has formulated, directed, controlled, had the

authority to control, or participated in the acts and practices of American Screening, including the acts and practices set forth in this Complaint. Mr. Kilgarlin Jr. is married to Defendant Shawn Kilgarlin. Defendant Kilgarlin Jr., in connection with the matters alleged herein, transacts or has transacted business in this District and throughout the United States.

8. Defendant Shawn Kilgarlin is the chief operating officer, quality manager, and quality management representative for American Screening. At all times material to this Complaint, acting alone or in concert with others, she has formulated, directed, controlled, had the authority to control, or participated in the acts and practices of American Screening, including the acts and practices set forth in this Complaint. Her responsibilities included overseeing responses to consumer complaints and quality control of American Screening's products. Defendant S. Kilgarlin, in connection with the matters alleged herein, transacts or has transacted business in this District and throughout the United States.

### **COMMERCE**

9. At all times material to this Complaint, Defendants have maintained a substantial course of trade in or affecting commerce, as "commerce" is defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

### **DEFENDANTS' BUSINESS ACTIVITIES**

#### **Overview**

10. Before the recent pandemic, Defendants mostly sold drug test and professional medical equipment. After the pandemic spread to the United States, they sought to capitalize on the high demand for personal protective equipment ("PPE") by marketing and selling masks, gloves, hand sanitizer, and other PPE through their website. Defendants represented—and still

represent to this day—that they would ship all products “24-48 hours after processing, pending product availability,” and that the advertised PPE was “in stock” and/or “available to ship.”

11. Defendants’ promises to ship currently available products 24-48 hours after processing are, in many cases, false. Consumers, including many small businesses and medical practitioners, have complained they still have not received PPE items they ordered weeks or even months ago. Although Defendants have repeatedly failed to ship in accordance with the periods promised on the company’s website, they have not informed consumers of the delay, and ignored persistent consumer questions and refund demands.

12. Based on these practices, the Better Business Bureau revoked American Screening’s accreditation on June 11, 2020.

#### **Defendants’ Shipping Policy**

13. American Screening markets and sells medical supplies and equipment; medical tests (used by employers to screen employees for drug use); health, sanitation, and beauty products; and PPE to consumers throughout the United States and internationally. Defendants sell these products in bulk to hospitals, local governments, schools, and nursing homes—as well as to individual consumers.

14. American Screening exclusively sells these goods through its website, [www.americanscreeningcorp.com](http://www.americanscreeningcorp.com).

15. American Screening ships products ordered online, and makes representations about the speed of its order processing.

16. Specifically, American Screening tells consumers that its practice (the “Shipping Policy”) is to ship paid-for orders 24-48 hours after processing pending product availability.

17. Additionally, American Screening represents its PPE products are “in stock” and/or “available to ship.”

18. The Shipping Policy also states that orders made before 2:00 Central Standard Time are processed the same day the order is placed, and that in some cases orders called in by as late as 4:00 pm Central Standard Time can be processed that day.

19. Defendants also offer consumers “Overnight/Expedited shipping” to “ensure we meet your deadlines.”

20. American Screening displays its Shipping Policy on its own separate page on its website, as follows:

### Shipping Policy

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All orders are shipped without a signature required, unless specified through email to [customerservice@americanscreeningcorp](mailto:customerservice@americanscreeningcorp), to ship with a signature required.

- All orders are shipped in Discreet unmarked packaging.
- For large orders call 1-866-526-2873 for our discounted shipping rates.
- Orders received before 2:00 pm CST will be processed that day and in some cases orders called in by 4:00 pm CST can be processed that day. All shipping occurs 24-48 hours after processing, pending product availability.
- If Overnight/Expedited delivery is a must please email [customerservice@americanscreeningcorp.com](mailto:customerservice@americanscreeningcorp) or call us at 1-866-526-2873 so we can ensure we meet your deadlines.
- Orders over 100.00 may be shipped saturday delivery but you must order over the phone by calling us at 1-866-526-2873.
- WE DO NOT SHIP TO PO BOXES.
- **International Shipping:** We offer UPS or US Postal, on our website, and for Special Discounted Air Freight Pricing, call us at 1-866-526-2873. US Postal is the cheapest option, however if your package is lost we cannot issue any refund. For detailed tracking, choose UPS or call us for Special Air Freight Pricing. PLEASE NOTE WE DO NOT COVER CUSTOM'S FEES.
- Once orders have been placed and are processing they are unable to be changed or edited, however if its the same quantity and product just different panel variation you can email [customerservice@americanscreeningcorp.com](mailto:customerservice@americanscreeningcorp) the change.

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