

RetailLawBCLP

BEWARE OF LISTING PHANTOM PRICES: ANN TAYLOR SETTLES FALSE DISCOUNT CLASS ACTION

Dec 28, 2017

Fashion retailer Ann Taylor has settled a false discounting class action in New York federal court alleging that prices at its outlet stores were listed as “marked down” from prices that never applied to the items. The named plaintiffs claim they were misled into believing they were getting a large discount, and would not have made the purchase if they knew the items were not heavily discounted.

The class action is just one of a growing number of deceptive pricing actions filed against retailers. As we previously reported, retailers can also face an action by the Federal Trade Commission or public prosecutors for such practices. This growing trend and Ann Taylor’s potential \$6.1 million exposure should put retailers on notice of the repercussions associated with using phantom prices in an effort to advertise discounts.

The settlement has received preliminary approval from District Judge Paul Oetken, and provides both monetary and injunctive relief to a class of more than a million consumers who purchased one or more items between May 5, 2012, and May 4, 2016, from Ann Taylor Factory and LOFT Outlet stores.

If approved, the settlement would consist of 425,000 vouchers to Ann Inc. stores valuing \$5.1 million, \$500,000 for class members who opt for a cash award of \$5 instead of a voucher worth \$12, and \$500,000 for administrative costs. Ann Inc. will have 60 days to change the labeling of its merchandise and comply with federal and state laws regarding pricing and advertising. The retailer must also pay \$1,500 to each named plaintiff and up to \$1,525,000 in attorneys’ fees and costs.

A final approval hearing is set for March 15, 2018. The case is *Siobhan Morrow and Ashley Gennock, et al. v. Ann Inc.*, No. 16-cv-3340-JPO, pending in the United States District Court for the Southern District of New York.

For questions or further information, contact the author, Ambika Behal, at Ambika.Behal@bryancave.com or (314) 259-2924, or any member of Bryan Cave's Retail team.

MEET THE TEAM



Merrit M. Jones

San Francisco

merrit.jones@bclplaw.com

+1 415 675 3435

This material is not comprehensive, is for informational purposes only, and is not legal advice. Your use or receipt of this material does not create an attorney-client relationship between us. If you require legal advice, you should consult an attorney regarding your particular circumstances. The choice of a lawyer is an important decision and should not be based solely upon advertisements. This material may be “Attorney Advertising” under the ethics and professional rules of certain jurisdictions. For advertising purposes, St. Louis, Missouri, is designated BCLP’s principal office and Kathrine Dixon (kathrine.dixon@bclplaw.com) as the responsible attorney.