

**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF FLORIDA  
PENSACOLA DIVISION**

FEDERAL TRADE COMMISSION, and

OFFICE OF THE ATTORNEY GENERAL,  
STATE OF FLORIDA, DEPARTMENT OF  
LEGAL AFFAIRS,

Plaintiffs,

v.

INMATE MAGAZINE SERVICE, INC., a  
Wyoming corporation,

318 LLC, a Florida limited liability company  
("318 Florida"),

318 LLC, a Wyoming limited liability  
company ("318 Wyoming"),

INMATE MAGAZINE SERVICE of N.A.  
LLC, a Wyoming limited liability company,

INMATE MAGAZINES PLUS.COM of  
N.A., LLC, a Wyoming limited liability  
company,

ROY SNOWDEN, individually and as an  
officer, member, manager, or owner of  
INMATE MAGAZINE SERVICE, INC., 318  
LLC Florida, and 318 LLC Wyoming,

Defendants.

Case No. \_\_\_\_\_

**FILED UNDER SEAL**

**COMPLAINT FOR PERMANENT INJUNCTION AND OTHER RELIEF**

Plaintiff, the Federal Trade Commission (“FTC”) and the Office of the Attorney General, State of Florida, Department of Legal Affairs (the “Florida Attorney General”), for their Complaint allege:

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) and 57b, and the FTC’s Trade Regulation Rule Concerning the Sale of Mail, Internet, or Telephone Order Merchandise (“MITOR”), 16 C.F.R. Part 435, which authorize the FTC to seek, and the Court to order, permanent injunctive relief, rescission or reformation of contracts, restitution, the refund of monies paid, disgorgement of ill-gotten monies, and other 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.

2. The Florida Attorney General brings this action under the Florida Deceptive and Unfair Trade Practices Act Chapter 501, Part II, Florida Statutes (“the FDUTPA”), to obtain temporary and permanent injunctions, consumer restitution, and other equitable relief, and reimbursement of costs and attorneys’ fees for Defendants’ acts or practices in violation of the FDUTPA. Pursuant to Section 501.207(2), The Florida Attorney General, has determined that an enforcement action serves the public interest.

## **JURISDICTION AND VENUE**

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

4. This Court has supplemental jurisdiction over the Florida Attorney General's claims pursuant to 28 U.S.C. § 1367.

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

## **SUMMARY OF THE CASE**

6. Defendants deceptively market magazine subscriptions to incarcerated consumers and their loved ones online and in publications that are circulated to thousands of state and federal correctional facilities throughout the United States. Defendants advertise an illusory promise that consumers will receive magazine subscriptions within 120 days. The stark reality is that many consumers simply do not get what they pay for. Consumers do not receive their magazines, and if they do, the timeframe far exceeds Defendants' promise of 120 days.

7. In addition to failing to provide the ordered magazines as promised, Defendants disregard the law by failing to provide consumers with an option to either consent to the delayed delivery or to cancel the order and receive a prompt refund. When consumers ask for refunds, Defendants refuse, citing their own unlawful company policy for doing so.

8. Within the past three years, the Better Business Bureau of Northwest Florida (“NWFL BBB”) has received over 560 complaints about Defendants’ deceptive practices, and the number is rising. Defendants have extensive knowledge of these complaints, yet they continue to engage in a troubling and persistent pattern of taking consumers’ money and failing to complete initial orders as promised.

9. Defendants’ business practices have recently garnered media attention from *The Dallas Morning News*, which reported in October 2020 that two Texas state prisoners located in different prisons did not receive the magazine subscriptions they paid for, and that their investigation found that the company was “ripping off hundreds of other prisoners, too.”

10. Defendants’ ongoing deceptive sales tactics violate the FTC Act, MITOR, and the FDUTPA, and continue to harm vulnerable consumers nationwide.

### **PLAINTIFFS**

11. The FTC is an independent agency of the United States Government created by the FTC Act, which authorizes the FTC to commence this district court civil action by its own attorneys. 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 telephone-based sellers to have a reasonable basis for advertised shipping times, and, when sellers cannot meet promised shipping times or ship within 30 days, to offer the buyer an option to consent to a delay in shipping or to cancel the order and obtain a refund.

12. The Florida Attorney General's Office is the enforcing authority under the FDUTPA pursuant to Section 501.203(2), Florida Statutes and is authorized to pursue this action to enjoin violations of the FDUTPA, and pursuant to Section 501.207, Florida Statutes, to obtain legal, equitable or other appropriate relief, including rescission or reformation of contracts, restitution, the appointment of a receiver, disgorgement of ill-gotten monies, or other relief as may be appropriate. Fla. Stat. §§ 501.207, 501.2075 and 501.2077.

### **DEFENDANTS**

13. Defendant Inmate Magazine Service, Inc. ("IMS") is a Wyoming corporation with its principal place of business and mailing address at 470 Ridge Lake Road, Crestview, Florida 32536. IMS transacts or has transacted business in this District and throughout the United States.

14. Defendant 318 LLC ("318 Florida") is a Florida limited liability company with its principal place of business at 2026 Pritchard Point, Navarre, Florida 32566, and its mailing address at P.O. Box 279, Mary Esther, Florida 32569.

318 Florida transacts or has transacted business in this District and throughout the United States.

15. Defendant 318 LLC (“318 Wyoming”) is a Wyoming limited liability company that is registered as a Foreign Limited Liability Company in the state of Florida. 318 Wyoming has its principal place of business at 4 Jackson Street North East, Fort Walton Beach, Florida 32548, and its mailing address at P.O. Box 279, Mary Esther, Florida 32569. 318 Wyoming transacts or has transacted business in this District and throughout the United States.

16. Defendant Inmate Magazine Service of N.A. LLC (“IMS NA”) is a Wyoming limited liability company with its principal place of business and mailing address at P.O. Box 279, Mary Esther, Florida 32569. IMS NA transacts or has transacted business in this District and throughout the United States.

17. Defendant Inmate Magazines Plus.Com of N.A., LLC (“Inmate Plus”) is a Wyoming limited liability company with its principal place of business and mailing address at 30 N Gould Street, Suite R, Sheridan, Wyoming 82801. Inmate Plus transacts or has transacted business in this District and throughout the United States.

18. Defendant Roy Snowden is an owner, managing member, and bank signatory of IMS, 318 Florida, and 318 Wyoming, and has signed checks on behalf of these entities for Defendants’ payroll, advertising, and other expenses. Through

the entity 318 Florida, Snowden has registered the domain names inmatemagazineservice.com and inmatemagazinesplus.com. Through the entity IMS NA, Snowden has registered a trademark for the term and logo “Inmate Magazine Service Magazine Service for Inmates & Their Families” [sic], which appears on the inmatemagazineservice.com website. Snowden has placed advertisements with *Prison Legal News* and *Criminal Legal News* and has advised the owner of these publications that his current affiliation is with Inmate Plus. At all times relevant 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 set forth in this Complaint. Defendant Snowden resides in this District and, in connection with the matters alleged herein, transacts or has transacted business in this District and throughout the United States.

### **COMMON ENTERPRISE**

19. Defendants IMS, 318 Florida, 318 Wyoming, IMS NA, and Inmate Plus (collectively, “Corporate Defendants”) have operated as a common enterprise while engaging in the unlawful acts and practices alleged below. Corporate Defendants have conducted the business practices described below through an interrelated network of companies that have common ownership, officers, managers, business functions, employees, post office box, and office locations, and that coordinate advertising efforts and commingle funds. For example, IMS NA owns

the trademark for IMS, and the Inmate Plus logo has appeared in IMS's correspondence with consumers regarding IMS. Additionally, IMS, 318 Florida, and 318 Wyoming have commingled funds by engaging in numerous inter-company bank transfers. Because these Corporate Defendants have operated as a common enterprise, each of them is liable for the acts and practices alleged below.

### **COMMERCE**

20. At all times relevant 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 and Florida Statutes § 501.203(8).

### **DEFENDANTS' UNLAWFUL BUSINESS PRACTICES**

#### ***Defendants Deceptively Advertise and Solicit Magazine Subscriptions***

21. Since at least 2017, Defendants have marketed and advertised magazine subscriptions to incarcerated consumers and their loved ones in advertisements that have appeared on Defendants' website, [inmatemagazineservice.com](http://inmatemagazineservice.com), and print publications, *Prison Legal News* and *Criminal Legal News*, which are circulated to thousands of correctional facilities throughout the United States.

22. Defendants promise consumers through advertisements, email, and phone that they will receive their purchased magazines in 120 days or less, and that normal delivery times are approximately 8 to 10 weeks.

23. Defendants' solicitations offer attractive prices for year-long magazine subscriptions. Defendants primarily offer bundled purchase options such as "10 magazines for \$40," "6 magazines for \$35," and "3 magazines for \$25."

24. Defendants' representations have led hundreds of consumers to purchase magazine subscriptions from Defendants. These consumers pay Defendants the advertised costs of the subscriptions plus a processing and handling fee of up to \$7.99. Consumers pay Defendants upfront and in full via money order, check, credit card, and PayPal.

25. Defendants' representations are false and misleading. In most instances, after consumers pay Defendants, they do not receive their magazines, or if they do, they do not receive them within 120 days. Nor do consumers receive any notice from Defendants seeking consumers' consent to shipping delays, or providing consumers an opportunity to cancel their orders and receive a refund.

***Defendants Do Not Deliver Magazines and Consumers Face Customer Service Roadblocks***

26. Consumers who attempt to contact Defendants to inquire about their missing orders are often unable to reach Defendants.

27. When calling Defendants via phone, consumers commonly report the experience of either being disconnected or being unable to reach a live person. Some

consumers try to leave voicemail messages with Defendants, if they are able to find a way to do so, but they do not receive a response.

28. Defendants are aware of consumers' hurdles in attempting to reach them by phone and through voicemail. For example, in July 2019, in a response to the Florida Department of Agriculture and Consumer Services concerning a consumer's complaint, Defendants responded:

“Our phone system isn't set up to leave any voicemails. If there was a way she left one we would not have received it. The number is 855-936-4674 option #1.”

29. Ironically, the phone number that Defendants have admitted to the Florida Department of Agriculture and Consumer Services is incapable of recording messages from consumers is the very number that Defendants asked the NWFL BBB to post on its website for delivery issues and “prompt personal customer care.”

30. In other instances, consumers have attempted to contact Defendants by email or through the customer service portal provided on Defendants' [inmatemagazineservice.com](http://inmatemagazineservice.com) website. Their inquiries also went unanswered.

31. Defendants' roadblocks to customer service are magnified by their company policy that limits consumers to only one customer service request for every 30 days. Specifically, Defendants' website warns:



**ONLY ONE CUSTOMER SERVICE  
REQUEST PER 30 DAYS PLEASE!**

Customer Service

32. Even with this policy, Defendants do not respond to the one service request per month. Many consumers tried contacting Defendants multiple times without any response, and if they did get a response, it was only after the Better Business Bureau or another agency got involved.

***Consumers Struggle for Help and File Complaints to Seek Relief***

33. With limited ability to contact Defendants, hundreds of consumers have filed complaints over the last three years with the Better Business Bureau of Northwest Florida, the Office of the Attorney General of Florida, the Florida Department of Agriculture and Consumer Services, and the Human Rights Defense Center, which owns the *Prison Legal News* and *Criminal Legal News* publications. Numerous consumers complain that they ordered magazines from Defendants, never received them, and never received a refund.

34. In at least one instance, an incarcerated consumer filed a complaint in 2016 against Defendants in federal district court, alleging that he ordered five magazine subscriptions from Defendants but never received any of the magazines.

35. In most instances, consumers are only able to receive a response from Defendants after submitting a complaint to a third-party agency like the NWFL BBB.

36. Defendants are well aware of the numerous complaints concerning their business practices. For example, in 2016, the NWFL BBB sent a letter to Defendants concerning a pattern of complaints filed by consumers against them. Defendants responded by explaining that “the root of the problem was a system-wide database crash that had affected thousands of orders” and assured the NWFL BBB that subscription processing timelines had returned to normal. Defendants’ assurances were either illusory or short-lived, because hundreds more consumers subsequently filed complaints with the NWFL BBB.

37. In 2018 and 2019, the NWFL BBB sent additional letters to Defendants concerning a pattern of consumer complaints. For this, and cumulative problematic practices, Defendants have earned an “F” rating with the NWFL BBB.

***Defendants Are Unable to Verify Shipment Dates or Determine Whether Consumers Have Received Their Orders***

38. Defendants acknowledge on their website that “*our responsibility* is to make sure that your subscription gets entered with the publisher, and that you receive your first issue” (emphasis in original).

39. Yet in numerous responses to the NWFL BBB and other agencies concerning consumers' complaints, Defendants do not appear to know when orders are shipped or if they are ever shipped at all. In fact, Defendants do not meet their responsibility to make sure that consumers receive their first issue. For example, Defendants have responded:

“We don't mail the magazine from our office, they come directly from the publisher. We cannot verify a date they are mailed as it is per their individual print times.”

40. In other responses, for example, Defendants have written, “Yes, the consumer should have received their magazines by now,” and “We are looking into it with the publisher.”

41. While Defendants claim to contact publishers about missing orders, several consumers took it upon themselves to contact the publishers directly after they got no response from Defendants. The publishers informed these consumers that they did not have any record of orders from Defendants. For example, in response to a letter from an incarcerated consumer, one publisher wrote:

**I am writing to you regarding your letter about your one-year subscription for Cincinnati magazine that you have ordered from Inmate Magazine Service. We have not received any orders through this service and do not have a contract with this company. We would recommend contacting Inmate magazine Service directly in order to inquire about your order and receive a refund.**

**Going forward you can place a subscription directly through us and we would be able to get your one-year subscription started.**

42. In responding to consumer complaints, Defendants do not verify shipment dates, nor do they provide consumers with notices informing them of their option to either consent to a delay or to cancel the order and receive a prompt refund.

***Defendants Have a Corporate Policy of Refusing Refunds to Consumers***

43. In numerous instances, Defendants refuse to provide refunds to consumers for undelivered magazines or processing and handling fees. Defendants frequently cite to a corporate “NO REFUNDS” policy on their website in support of this practice:

**NO REFUNDS**

When you order from us it is with the understanding that we **CANNOT** make refunds. We would *like* to be able to send you a refund if you change your mind after you order, but we can't. That's because the publishers will not give us a refund of the money we sent them for your order. The publishers give us such a low price for Inmates that it can cost them more money to send you a refund than they (and we) make on your order. So, once you've ordered a subscription the payment cannot be refunded.

44. Defendants’ “NO REFUNDS” policy appears several pages into Defendants’ website under Defendants’ “FAQs” and “General Terms and Information” sections.

45. Defendants do not include their “NO REFUNDS” policy in print order forms, which most incarcerated consumers use to submit their orders. As a result, most incarcerated consumers who purchase Defendants’ magazines through print

advertisements are not aware of Defendants' "NO REFUNDS" policy prior to their purchase.

46. Instead of refunds, Defendants frequently offer "free" magazines, or the option to select certain alternate magazines, to console consumers who have not received their magazines or whose magazines are now no longer available in print. Consumers who accepted this offer have reported never receiving the "free" or alternate magazines either.

47. In other instances, when Defendants have sold magazines that are no longer available in print, Defendants have offered consumers an option to buy their "most expensive magazines" at "below cost" to ease the pain of not receiving magazines that have ceased publication. For example, Defendants have made the following written offer to consumers:

"FOR YOU ONLY! Magazines ceasing publication has put everyone in a bind! To ease, the pain, and ONE TIME ONLY, you can choose our most expensive magazine at a below cost deal! Choose one, two or three and pay the below cost price to make this right! PAYMENT MUST ACCOMPANY THIS LETTER WITHIN 30 DAYS, ONE TIME DEAL ONLY! SPECIAL REPLACEMENT OFFER! HERE IS THE LIST. . ."

48. Additionally, in most instances, Defendants do not offer consumers, including consumers who have waited more than four months to receive their magazines or who have never received their magazines at all, the option to cancel their orders and receive a prompt refund.

49. Consumers rarely receive refunds, and when they do, refunds result from protracted intervention by the Better Business Bureau or other agencies. In some instances, consumers have been able to dispute their transaction with third parties such as PayPal and to obtain a reversal of charges made to their credit cards.

***Defendants Have Not Changed Their Practices and  
Consumer Harm Is Ongoing***

50. Despite receiving hundreds of consumer complaints through the years concerning their business practices, Defendants continue to advertise to consumers that they will deliver magazines to consumers, when in numerous instances, they do not.

51. Additionally, Defendants continue to ignore legal requirements to notify consumers of what would be a self-remediating choice if only consumers knew about it—the choice to either consent to the delay or to cancel the order and receive a prompt refund.

52. Incarcerated consumers are particularly vulnerable to Defendants' practices because they are unable to communicate with businesses in the outside world as readily as other consumers, which makes it more difficult for them to inquire about shipping delays or to seek refunds for undelivered goods.

53. Snowden has participated directly in these unlawful practices by, for example, submitting and paying for advertisements in print publications and

maintaining and paying for the inmatemagazineservice.com domain name. Snowden also has knowledge of the enterprise's practices. In each year from 2017 through 2020, the Human Rights Defense Center contacted Snowden concerning advertisement complaints from consumers. As an owner of multiple entities in the operation, seated at the helm of the enterprise, Snowden has authority to control the entities and to curtail their unlawful practices, but has not done so.

54. Based on the facts and violations of law alleged in this Complaint, the FTC has reason to believe that Defendants are violating or about to violate laws enforced by the Commission.

### **VIOLATIONS OF THE FTC ACT**

55. Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), prohibits “unfair or deceptive acts or practices in or affecting commerce.”

56. Misrepresentations or deceptive omissions of material fact constitute deceptive acts or practices prohibited by Section 5(a) of the FTC Act. 15 U.S.C. § 45(a).

### **Count I—False or Misleading Representations Concerning Delivery of Magazines (by Plaintiff FTC)**

57. In numerous instances in connection with the advertising, marketing, promotion, offering for sale, or sale of magazine subscriptions, including through the means described in Paragraphs 21 through 49, Defendants have represented,

directly or indirectly, expressly or by implication, that:

- a. Defendants would deliver the magazines consumers ordered, and
- b. Defendants would deliver magazines within 120 days.

58. In truth and in fact, in numerous instances:

- a. Defendants failed to deliver the ordered magazines to consumers or refund their money, or
- b. Defendants did not deliver the ordered magazines within the advertised timeframe.

59. Therefore, Defendants' representations as set forth in Paragraph 57 are false or misleading and constitute a deceptive act or practice in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45 (a).

**VIOLATIONS OF THE FLORIDA DECEPTIVE AND UNFAIR TRADE PRACTICES ACT**

60. Section 501.204 of FDUTPA, Chapter 501, Part II, Florida Statutes, declares unlawful "unfair or deceptive acts or practices in the conduct of any trade or commerce."

**Count II—False or Misleading Representations Concerning Delivery of Magazines (by Plaintiff Florida Attorney General)**

61. In numerous instances in connection with the advertising, marketing, promotion, offering for sale, or sale of magazine subscriptions, including through the means described in Paragraphs 21 through 49, Defendants have represented,

directly or indirectly, expressly or by implication, that:

- a. Defendants would deliver the magazines consumers ordered, and
- b. Defendants would deliver magazines within 120 days.

62. In truth and in fact, in numerous instances:

- a. Defendants failed to deliver the ordered magazines to consumers or refund their money, or
- b. Defendants did not deliver the ordered magazines within the advertised timeframe.

63. Therefore, Defendants' representations as set forth in Paragraph 61 are false, misleading and likely to mislead consumers acting reasonably, and/or consumers within the state of Florida were actually misled by Defendants' misrepresentations in violation of Section 501.204 of FDUTPA.

64. Section 501.203(3), Florida Statutes defines "violation of this part" to mean "any violation of [FDUTPA] or the rules adopted under this act and may be based upon any of the following as of July 1, 2017: . . . Any rules promulgated pursuant to the Federal Trade Commission Act, 15 U.S.C. ss. 41 et seq."

65. As further stated below, Defendants have violated rules promulgated pursuant to the Federal Trade Commission Act, including but not limited to 16 C.F.R. § 435.2(b)(1), (c)(4) and (c)(5).

66. Violations of these FTC rules constitute violations of FDUTPA.

67. Defendants knew or should have known that their conduct in violation of FDUTPA was unfair, deceptive, or prohibited by law.

**VIOLATIONS OF THE MAIL, INTERNET, OR TELEPHONE ORDER  
MERCANDISE RULE (“MITOR”)**

68. MITOR prohibits sellers from soliciting any order for the sale of merchandise ordered through the mail, via the Internet, or by telephone or facsimile transmission “unless, at the time of the solicitation, the seller has a reasonable basis to expect that it will be able to ship any ordered merchandise to the buyer” either “[w]ithin that time clearly and conspicuously stated in any such solicitation; or [i]f no time is clearly and conspicuously stated, within thirty (30) days after receipt of a properly completed order from the buyer.” 16 C.F.R. § 435.2(a)(1).

69. “Receipt of a properly completed order” means the time at which a seller receives full or partial payment tendered in the proper amount and form, including authorization to charge an existing charge account, and an order “containing all of the information needed . . . to process and ship the order.” 16 C.F.R. § 435.1(c).

70. “Shipment” means the act of physically placing the merchandise in the possession of a carrier. 16 C.F.R. § 435.1(e).

71. Where a seller is unable to ship merchandise within the time stated in

the solicitation or within 30 days, if no time is given, the seller must offer to the buyer “clearly and conspicuously and without prior demand, an option either to consent to a delay in shipping or to cancel the buyer’s order and receive a prompt refund.” 16 C.F.R. § 435.2(b)(1).

a. Any such offer “shall be made within a reasonable time after the seller first becomes aware of its inability to ship,” but in no event later than the time stated or within 30 days if no time is stated. 16 C.F.R. § 435.2(b)(1).

b. The offer must “fully inform the buyer regarding the buyer’s right to cancel the order and to obtain a prompt refund” and provide either a definite revised shipping date or, “where the seller lacks a reasonable basis for providing a definite revised shipping date[,] . . . inform the buyer that the seller is unable to make any representation regarding the length of delay.” 16 C.F.R. § 435.2(b)(1)(i).

72. A seller must “deem an order cancelled and . . . make a prompt refund to the buyer whenever [t]he seller has notified the buyer of its inability to make shipment and has indicated its decision not to ship the merchandise,” or “[t]he seller fails to offer the option [to consent to a delay in shipping or cancel the order] and has not shipped the merchandise” within the time stated or within 30 days, if no time is given. 16 C.F.R. § 435.2(c)(4), (5).

73. Pursuant to Section 18(d)(3) of the FTC Act, 15 U.S.C. § 57a(d)(3), and

16 C.F.R. Part 435.2, a violation of MITOR constitutes an unfair or deceptive act or practice in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

**Count III—Failure to Seek Consent or Offer Cancellation (by Plaintiff FTC)**

74. In numerous instances, in connection with mail, Internet, or telephone order sales, Defendants failed to ship properly completed orders for merchandise within the timeframe required by MITOR, and failed to clearly and conspicuously offer buyers, without prior demand, an option either to consent to a delay in shipping or to cancel an order and receive a prompt refund.

75. Therefore, Defendants' acts and practices, as set forth in Paragraph 74, violate Section 435.2(b) of the Rule, 16 C.F.R. § 435.2(b), and constitute unfair or deceptive acts or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

**Count IV—Failure to Provide Cancellation or Refund (by Plaintiff FTC)**

76. In numerous instances, when Defendants failed to ship orders within the timeframe required by MITOR and failed to offer consumers the opportunity to consent to a delay in shipping or to cancel their order, they did not cancel those orders or provide consumers a refund. In addition, if buyers notified Defendants of an order cancellation pursuant to any option under MITOR, Defendants did not deem those orders cancelled or provide a prompt refund.

77. Defendants' acts or practices, as set forth in Paragraph 76, violate

Section 435.2(c) of the Rule, 16 C.F.R. § 435.2(c), and constitute unfair or deceptive acts or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

### **CONSUMER INJURY**

78. Consumers are suffering, have suffered, and will continue to suffer substantial injury as a result of Defendants' violations of the FTC Act, MITOR and the FDUTPA. In addition, Defendants have been unjustly enriched as a result of their unlawful acts or practices. Absent injunctive relief by this Court, Defendants are likely to continue to injure consumers, reap unjust enrichment, and harm the public interest.

### **PRAYER FOR RELIEF**

Wherefore, Plaintiff FTC, pursuant to Sections 13(b) and 19 of the FTC Act, 15 U.S.C. §§ 53(b) and 57b; MITOR, 16 C.F.R. Part 435; and Plaintiff State of Florida, pursuant to Chapter 501, Part II, Florida Statutes, and the Court's own equitable powers, request that the Court:

A. Award Plaintiffs such preliminary injunctive and ancillary relief as may be necessary to avert the likelihood of consumer injury during the pendency of this action and to preserve the possibility of effective final relief, including but not limited to temporary and preliminary injunctions, and an order providing for immediate access, the turnover of business records, an asset freeze, and the appointment of a receiver;

B. Enter a permanent injunction to prevent future violations of the FTC Act, MITOR, and the FDUTPA by Defendants;

C. Award such relief as the Court finds necessary to address Defendants' violations of the FTC Act, MITOR, and the FDUTPA, including rescission or reformation of contracts, restitution, the refund of monies paid, and the disgorgement of ill-gotten monies, or other relief necessary to redress injury to consumers resulting from Defendants' violations; and

D. Award Plaintiffs the costs of bringing this action, as well as such other and additional relief as the Court may determine to be just and proper.

Respectfully submitted,

**Reilly Dolan**  
Acting General Counsel

Dated: February 16, 2021

*/s/ Sana Coleman Chriss*  
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