

YES NO

EXHIBITS

CASE NO. 26 Ch 02139

DATE: 3-6-26

CASE TYPE: Class Action

PAGE COUNT: 12

CASE NOTE

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
CHANCERY DIVISION

NORAH FLAHERTY, individually and on
behalf of all others similarly situated,

Plaintiff,

v.

FABLETICS, LLC,

Defendant.

Case No. 2026CH02139

**CLASS ACTION
COMPLAINT**

JURY DEMANDED

Now comes the Plaintiff, NORAH FLAHERTY (“Plaintiff”), individually and on behalf of all others similarly situated, by and through his attorneys, and for her Class Action Complaint against the Defendant, FABLETICS, LLC (“Defendant”), Plaintiff alleges and states as follows:

PRELIMINARY STATEMENT

1. This is an action for damages and any other available legal or equitable remedies, for violations of Illinois Consumer Fraud and Deceptive Businesses Practices Act (“ILCFA”), 815 ILCS 505/1 *et seq.*, and unjust enrichment, resulting from the illegal actions of Defendant, in charging Plaintiff unlawful tariffs. Plaintiff alleges as follows upon personal knowledge as to herself and her own acts and experiences, and, as to all other matters, upon information and belief, including investigation conducted by her attorneys.

2. Beginning on February 1, 2025, and continuing through May 2025, President Donald J. Trump issued a series of executive orders declaring a litany of unprecedented purported national emergency related to drug trafficking, trade deficits, and Venezuelan oil thereby imposing tariff duties on imports from many important United States world trade partners including, but not limited to, Canada, Mexico, India, Germany, and China under the International Emergency

Economics Powers Act (IEEPA), 90 Fed. Reg. 9113. See Exec. Order No. 14193 (Feb. 1, 2025); Exec. Order No. 14194 (Feb. 1, 2025); Exec. Order No. 14195 (Feb. 1, 2025); Exec. Order 14257 (Apr. 2, 2025); Exec. Order No. 14245 (Mar. 24, 2025) (Collectively, the Tariff Executive Orders).

3. The sweeping Tariff Executive Orders imposed an array of frequently changing duties ranging from 10% to 84% based on erratic country specific tariff policy dictated through rapidly published Executive Orders. See Exec. Order 14257, 90 Fed. Reg. 15,041 (Apr. 1, 2025); Executive Order 14257, 90 Fed. Reg. 15,041 (Apr. 2, 2025); Exec. Order No. 14,259, 90 Fed. Reg. 15,509 (Apr. 8, 2025); Exec. Order No. 14,266, 90 Fed. Reg. 15,625 (Apr. 9, 2025).

4. After May 2, 2025, duty-free exemptions for good originating from China and Hong Kong were eliminated, so that unlawful IEEPA Tariffs were imposed on all goods originating from China or Hong Kong. Exec. Order No. 14256 (Apr. 2, 2025) (eliminating duty-free de minimis treatment under 19 U.S.C. § 1321(a)(2)(C) for products originating in the People's Republic of China and Hong Kong, effective May 2, 2025).

5. When goods are imported into the United States the United States Customs and Border Protection assesses and collects tariffs on those goods based on the Harmonized Tariff Schedule of the United States. Pub. L. No. 100–418, 102 Stat. 1107 (1988). An importer may receive a refund for tariffs through a process known as “Liquidation”. See 19 U.S.C. § 1504(b).

6. Defendant paid IEEPA tariffs when it imported the products Plaintiff and similarly situated consumers purchased. To off set the cost of paying IEEPA tariffs Defendant passed the tax burden onto Plaintiff and similarly situated consumers by directly or indirectly charging them the cost of the unlawful IEEPA tariffs.

7. On February 2026, the United States Supreme Court held that the IEEPA and other statutes cited in the Tariff Executive orders do not authorize the President to impose tariffs because

Article I of the constitution vests taxing power with Congress not the President, and Congress did not provide a clear intent or direction in IEEPA authorizing their imposition. *Learning Resources Inc. et al. v. Trump, President of the United States, et al.*, No. 24-1287, Slip Op. 6, (2026).

8. As a result, any IEEPA tariffs charged to Defendant were unlawful and unconstitutional, and Defendant is entitled to seek a refund for any tariffs it paid pursuant to the Tariff Executive Orders through either litigation or the Liquidation process. See *Id.*

9. However, Defendant passed its unlawful IEEPA tariff burdens onto Plaintiff, the Class, and Subclass Members by directly or indirectly charging Plaintiff and the Classes Members the cost of the unlawful IEEPA tariffs. Plaintiff, the Class, and Sub-Class Members were thereby deprived of money paid to Defendant for unlawful IEEPA tariffs.

10. If Defendant receives a refund for the IEEPA tariffs Defendant will have been provided a windfall as a result of already having charged consumers for the collection of unlawful IEEPA tariffs. Defendant's retention of money obtained from charging consumers for IEEPA tariffs offends public policy, is oppressive and causes substantial injury to consumers by depriving those consumers like Plaintiff, the Class, and Sub-Class Members of the cost of the unlawful IEEPA Tariffs.

11. Even if Defendant does not receive a refund it is still unfair, oppressive, unscrupulous, and causes substantial injury to consumers to charge consumers the cost of unconstitutional, unlawful IEEPA tariffs that provide no benefit to Plaintiff or other consumers in any way.

PARTIES

12. Plaintiff is an individual who was at all relevant times residing in Chicago, Illinois.

13. Defendant is a Delaware limited liability company, whose principal place of business is located in El Segundo, California.

14. At all times relevant hereto, Defendant was engaged in the marketing, manufacturing, and sale of consumer products.

FACTS COMMON TO ALL COUNTS

15. Defendant manufactures, advertises, markets, sells, and distributes consumer products throughout the United States.

16. During the Class Period Defendant collected unlawful IEEPA tariffs (the “IEEPA Tariffs”) from Plaintiff by passing on its tariff obligations pursuant to Exec. Order No. 14193 (Feb. 1, 2025), Exec. Order No. 14194 (Feb. 1, 2025), Exec. Order No. 14195 (Feb. 1, 2025), Exec. Order 14257 (Apr. 2, 2025), Exec. Order No. 14245 (Mar. 24, 2025).

17. On multiple occasions after the unlawful IEEPA Tariffs were imposed, Plaintiff purchased clothing products from Defendant’s website. For those transactions, Defendant charged unlawful IEEPA Tariffs to Plaintiff. For example, Defendant charged Plaintiff \$14.58 in unlawful IEEPA Tariffs across three transactions.

18. Defendant’s retention of the unlawful IEEPA Tariffs charged to Plaintiff, the Class, and Sub-Class Members offends public policy as it is unconscionable and unfair for Plaintiff and similarly situated consumers to bare Defendant’s tax burden under the IEEPA Tariffs when those Tariffs were unlawful and should not have been collected.

19. As a result of Defendant’s illegal conduct, Plaintiff and the Class were forced to pay Defendant’s tax burdens because Defendant passed the unlawful IEEPA Tariffs on to Plaintiff.

20. Plaintiff and the Class have unequal bargaining power to Defendant, and are unable to negotiate the payment of the unlawful IEEPA Tariffs from Defendant, and therefore Plaintiff, the Class, and Sub-Class members could not have avoided paying the unlawful IEEPA Tariffs.

21. Defendant, and not Plaintiff, the Class, or Sub-Class should have accepted and borne itself the tax burden of the unlawful IEEPA Tariffs, but, instead Defendant charged Plaintiff, the Class, and Sub-Class members for the cost of the unlawful IEEPA Tariffs.

22. Allowing Defendant to keep the proceeds of the unlawful IEEPA Tariff charges deprives Plaintiff, the Class, and Sub-Class Members of the money paid for the cost of the unlawful IEEPA Tariffs while providing nothing of value to Plaintiff or the Classes Members.

23. But for Defendant charging Plaintiff, the Class, and Class Members the cost of the unlawful IEEPA Tariffs, Plaintiff and the Classes' Members would not have needed to pay the unlawful IEEPA Tariffs.

24. As a result of Defendant's acts outlined above, Plaintiff has suffered concrete and particularized injuries and harm, which include, but are not limited to, the following:

- a. Lost money in the amount Defendant charged Plaintiff for the Tariffs.
- b. Wasting Plaintiff's time; and
- c. Stress, aggravation, frustration, loss of trust, loss of serenity, and loss of confidence in economic freedom and stability.

CLASS ALLEGATIONS

25. Plaintiff brings this action on behalf of herself and all others similarly situated, as a member of the proposed class (the "Class"), defined as follows:

All persons within the United States who were charged IEEPA Tariffs by Defendant within three years prior to the filing of the original Complaint through the date of class certification.

26. Plaintiff also brings this action on behalf of herself and all others similarly situated, as a member of the proposed sub-class (the “Sub-Class”), defined as follows

All persons within the State of Illinois who were charged IEEPA Tariffs by Defendant within three years prior to the filing of the original Complaint through the date of class certification.

27. The Class and the Sub-Class satisfy all of the requirements of the Illinois Code of Civil Procedure for maintaining a class action, specifically:

- a. Upon information and belief, the Class and the Sub-Class are so numerous that joinder of all members is impracticable. On information and belief there are hundreds, if not thousands of individuals in the United States and the State of Illinois who purchased the products within the applicable statute of limitations period.
- b. There are questions of fact and/or law which are common to the Class and the Sub-Class, and which predominate over questions affecting any individual Class or Sub-Class members. These common questions of fact and law include, but are not limited to:
 - i. Whether Defendant’s retention of the unlawful IEEPA Tariffs paid by Plaintiff, the Class, and Sub-Class Members is unjust, oppressive, unscrupulous, or unfair.
 - ii. Whether Defendant unjustly enriched itself as a result of the unlawful conduct alleged above;
 - iii. Whether there should be a tolling of the statute of limitations; and
 - iv. Whether the Class and Sub-Class members are entitled to restitution, actual damages, punitive damages, and attorneys’ fees and costs.

- c. Plaintiff's claims are typical of the Class and the Sub-Class, which all arise from the same operative set of facts and are based on the same legal theories
- d. Plaintiff has no interests adverse or antagonistic to the interests of the other members of the Class and the Sub-Class.
- e. Plaintiff will fairly and adequately protect the interests of the Class and the Sub-Class and Plaintiff has retained experienced and competent attorneys to represent the Class and the Sub-Class.
- f. This class action is a fair and efficient adjudication of the controversy alleged herein. Plaintiff anticipates that no unusual difficulties are likely to be encountered in the management of this class action.
- g. This class action will permit large numbers of similarly situated persons to prosecute their common claims in a single forum simultaneously and without the duplication of effort and expense that numerous individual actions would engender. This class action will also permit the adjudication of relatively small claims by many Class and Sub-Class members who would not otherwise be able to afford to seek legal redress for the wrongs complained of herein. Absent a class action, Class and Sub-Class members will continue to suffer losses of legally protected rights, as well as monetary damages. If Defendants' conduct is allowed proceed to without remedy, Defendants will continue to benefit financially from such conduct.
- h. Defendants have acted on grounds generally applicable to the entire Class and Sub-Class, thereby making it appropriate for the Court to order final

monetary, injunctive, and declaratory relief with respect to the Class and the Sub-Class as a whole.

28. Defendant, its employees and agents are excluded from the Class and Sub-Class. Plaintiff does not know the number of members in the Class and Sub-Class, but believes the members number in the thousands, if not more. Thus, this matter should be certified as a Class Action to assist in the expeditious litigation of the matter.

29. The size and definition of the Class and Sub-Class can be identified by Defendant's own records.

COUNT I
VIOLATIONS OF THE ILLINOIS CONSUMER FRAUD AND
DECEPTIVE BUSINESS PRACTICES ACT, 815 ILCS 505/1, et seq.

30. Plaintiff incorporates all of the allegations and statements made in Paragraphs 1 through 29 above as if fully reiterated herein.

31. Plaintiff is a "person" as defined in 815 ILCS 505/1(c), as she is a natural person.

32. Defendant is a "person" as defined in 815 ILCS 505/1(c), as it is a company and a business entity and/or association.

33. 815 ILCS 505/2 states:

Unfair methods of competition and unfair or deceptive acts or practices, including but not limited to the use or employment of any deception fraud, false pretense, false promise, misrepresentation or the concealment, suppression or omission of any material fact, with intent that others rely upon the concealment, suppression or omission of such material fact, or the use or employment of any practice described in Section 2 of the "Uniform Deceptive Trade Practices Act", approved August 5, 1965, in the conduct of any trade or commerce are hereby declared unlawful whether any person has in fact been misled, deceived or damaged thereby.

34. As a result of Defendant's conduct Plaintiff, the Class, and Sub-Class Members were charged unlawful IEEPA Tariffs. Defendant's retention of the unlawful IEEPA Tariff

proceeds is unfair and oppressive because it deprives Plaintiff, the Class, and Sub-Class Members of the cost of those Tariffs while providing nothing of value in return.

35. 815 ILCS 505/10a states:

(a) Any person who suffers actual damage as a result of a violation of this Act committed by any other person may bring an action against such person. The court, in its discretion may award actual economic damages or any other relief which the court deems proper...

(c) [T]he Court may grant injunctive relief where appropriate and may award, in addition to the relief provided in this Section, reasonable attorney's fees and costs to the prevailing party.

36. In taking the actions set forth above, Defendant violated the Illinois Consumer Fraud and Deceptive Business Practices Act, including, but not limited to, 815 ILCS 505/2, by charging Plaintiff, the Class, and Sub-Class Members unlawful IEEPA Tariffs thereby shifting Defendant's Tariff tax burdens onto Plaintiff and similarly situated consumers.

37. Defendant failed to comply with the requirements of the ILCFA, including, but not limited to, 815 ILCS 505/2 as to the Class and Sub-Class members with respect to the above-alleged transactions

38. By reason thereof, Plaintiff is entitled to a judgment against Defendant, declaring that Defendant's conduct violated 815 ILCS 505/2, enjoining Defendant from engaging in similar conduct in the future, and awarding actual damages, punitive damages, injunctive relief, costs, and attorneys' fees.

PRAYER FOR RELIEF

Wherefore, Plaintiff prays for a judgment against Defendant as follows:

- a. An order certifying the Class and the Sub-Class and appointing Plaintiff as Representative of the Class and the Sub-Class;

- b. An order certifying the undersigned counsel as the Class and Sub-Class Counsel;
- c. An order requiring Defendant, at its own cost, to notify all members of the Class and the Sub-Class of the unlawful, unfair, and unconscionable conduct herein;
- d. Judgment against Defendant in an amount to be determined at trial;
- e. An order for injunctive relief prohibiting such conduct by Defendant in the future;
- f. Judgment against Defendant for Plaintiff's attorneys' fees, court costs, and other litigation costs; and
- g. Any other relief deemed just and proper by this Court.

COUNT II
UNJUST ENRICHMENT

39. Plaintiff incorporates all of the allegations and statements made in Paragraphs 1 through 29 above as if fully reiterated herein.

40. Plaintiff conferred monetary benefits to Defendant by paying the unlawful IEEPA Tariffs Defendant charged to Plaintiff.

41. Defendant has been unjustly enriched by shifting its unlawful IEEPA Tariff burden onto Plaintiff, the Class, and Sub-Class members. The IEEPA Tariffs were unlawful, and as a result Defendant has imposed the cost of those unlawful IEEPA Tariffs upon Plaintiff.

42. Defendant's retention of the money it received from Plaintiff, and the Class and Sub-Class members, is unjust and inequitable because Defendant passed on an unlawful tax burden to Plaintiff, and the Class and Sub-Class members, and thereby depriving them of the cost of those unlawful IEEPA Tariffs.

43. Defendant's unjust retention of the benefits conferred on it by Plaintiff, and the Class and Sub-Class members, entitles Plaintiff, and the Class and Sub-Class members, to restitution of the money they paid to Defendant for the Products.

PRAYER FOR RELIEF

Wherefore, Plaintiff prays for a judgment against Defendant as follows:

- a. An order certifying the Class and the Sub-Class and appointing Plaintiff as Representative of the Class and the Sub-Class;
- b. An order certifying the undersigned counsel as the Class and Sub-Class Counsel;
- c. An order requiring Defendant, at its own cost, to notify all members of the Class and the Sub-Class of the unlawful, unfair, deceptive, and unconscionable conduct herein;
- d. Judgment against Defendant in an amount to be determined at trial;
- e. Judgment against Defendant for Plaintiff's attorneys' fees, court costs, and other litigation costs; and
- f. Any other relief deemed just and proper by this Court.

JURY DEMAND

Plaintiff demands a trial by jury on all issues in this action so triable, except for any issues relating to the amount of attorneys' fees and costs to be awarded should Plaintiff prevail on any of

her claims in this action.

FILED DATE: 3/6/2026 2:05 PM 2026CH02139

RESPECTFULLY SUBMITTED,

NORAH FLAHERTY



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