

Ohio Lawsuit Alleges Deceptive Advertising by Jos. A. Bank

June 5, 2013

On May 24, 2013, Ohio consumers filed a class action lawsuit in U.S. District Court (N.D. Ohio) alleging that advertising by clothing retailer Jos. A. Bank violates the [Ohio Consumer Sales Practices Act](#) ("CSPA") and state sale price statutes. *See* *Schneider v. Jos. A. Bank Clothiers, Inc.*, No. 1:13-cv-01175-SL (N.D. Ohio Filed on May 24, 2013). According to the Complaint, Jos. A. Bank's television, radio, print, and online advertising falsely promotes substantial savings (including "free" offers) on men's suits, sportcoats, and dress pants by basing the advertised "discount" prices on grossly inflated and illusory "regular prices" that do not represent the prices at which any of the clothing items are sold.

As one purported example of Jos. A. Bank's alleged illegal conduct, the Complaint describes an instance where an Ohio consumer purchased a suit for "70% Off" of the advertised regular price of \$895. The Plaintiffs allege that the \$895 "regular price" does not reflect the actual price regularly paid by consumers for the applicable suit, and that the suit is substantially inferior in value to the advertised regular price. Ohio law defines a "regular price" as "the price at which the goods or services are openly and actively sold by a supplier to the public on a continuing basis for a substantial period of time." In addition, the Complaint asserts that Jos. A. Bank's claims that its sales are for a "limited time," "today only," or similar terms, are false and deceptive because the company maintains its sales offers on a nearly continuous basis.

The lawsuit claims that Jos. A. Bank's conduct violates Ohio Administrative Code section [109:4-3-04](#), which imposes certain requirements when making "free" promotional offers, and section [109:4-3-12](#), which prohibits an advertiser from using certain terms (e.g., "regularly. . .", "now. . ."; "reduced from. . . to . . .,") unless the comparison is to the advertiser's legitimate regular price.

The plaintiffs are seeking compensatory damages that are based on the difference between the allegedly inflated "regular price" that each class member paid for a clothing item, and the "true" lower regular price for each such item.