

**SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
CIVIL DIVISION**

_____)	
NATIONAL CONSUMERS LEAGUE)	
1701 K Street, N.W., #1200,)	
Washington, DC 20006)	
)	No. 2015 CA 007731 B
Plaintiff,)	
v.)	
)	Judge Thomas J. Motley
WALMART STORES, INC.,)	
702 SW 8th Street)	
Bentonville, Arkansas 72716)	AMENDED COMPLAINT
)	
and)	
)	
J.C. PENNEY CORPORATION, INC.)	
6501 Legacy Drive)	
Plano, TX 75024)	
)	
and)	
)	
THE CHILDREN’S PLACE, INC.)	
500 Plaza Drive)	
Secaucus, New Jersey 07094)	
)	
Defendants.)	
_____)	

Plaintiff, National Consumers League (“NCL”), by its undersigned attorneys, brings this action on behalf of the general public of the District of Columbia (the “General Public”) against Walmart Stores, Inc. (“Walmart”), J.C. Penney Corporation, Inc. (“JCPC”) and The Children’s Place, Inc. (“TCP”) (collectively “Defendants”), and alleges the following:

INTRODUCTION

1. Consumers are increasingly responsive to promises of “corporate social responsibility” or “CSR” by the companies from whom they purchase products and services.

2. Each of the Defendants is aware of this increasing consumer responsiveness to promises of CSR and – in order to increase its own sales and market share – each of the Defendants uses its advertising and Internet presence to promote its own CSR.

3. Walmart, for example, declares on its web site that, “The safety and well being of workers across our supply chain is the Responsible Sourcing group’s top priority.”¹ Walmart’s “Statement of Ethics” announces that, “If you hire a third party, you should take reasonable steps to ensure the third party is aware of this Statement of Ethics, has a reputation for integrity and acts in a responsible manner consistent with our standards.”²

4. Similarly, JCPC issues to the general public a four-page “Supplier Principles” memorandum that “detail[s] strict expectations of all suppliers that conduct business with JCPenney.”³ JCPC’s mandatory principles include “expectations on business ethics, working conditions, safe products, social responsibility and environmental impact.”

5. TCP also promises the General Public that it “recognize[s] that the factory workers who make our products deserve decent work in safe and healthy conditions.”⁴ In order to “protect factory workers’ rights,” TCP has developed its own “Supplier Code of Conduct and detailed requirements that we expect all approved vendors and factories to follow.”

6. Defendants also announce and describe their various auditing and policing systems to ensure compliance with their respective standards.

¹ <http://corporate.walmart.com/global-responsibility/ethical-sourcing/standards-for-suppliers> (last accessed on August 11, 2015).

² <https://walmartethics.com/uploadedFiles/Content/U.S.%20-%20English.pdf> (last accessed on August 11, 2015).

³ <http://phx.corporate-ir.net/External.File?item=UGFyZW50SUQ9MTg5NjA4fENoaWxkSUQ9LTF8VHlwZT0z&t=1;>
<http://www.jcpnewsroom.com/about-us>

⁴ <http://www.childrensplace.com/shop/us/content/social-responsibility>

7. Walmart purportedly directs reports of potential violations of its “Standards for Suppliers” to Walmart’s Global Ethics Office, where the company claims such reports are referred for investigation and corrective action if needed. In addition, Walmart claims to conduct regular audits of its sourcing factories, through accredited and internationally recognized auditing firms, to verify that a supplier is complying with Walmart’s Standards for Suppliers, and confirm that the working environment is clean, safe and well-maintained. Walmart’s audits are supposed to include a factory tour, employee interviews, equipment checks, and health, safety and environmental hazard inspections.

8. JCPC similarly promises audits to ensure compliance with their supplier standards. Moreover, if a JCPC supplier fails to meet JCPC’s standards, JCPC promises to “take decisive corrective action, up to and including cancellation of contracts and termination of our relationship.”

9. TCP also uses a system of internal and third-party auditors to “ensure compliance with our standards,” including factory monitoring to determine “true factory working conditions” by assessing “the working conditions of the facilities from which we source.” According to TCP, “[e]ach audit involves a thorough inspection of the facility, private interviews with factory workers, as well as a review of compensation and attendance records.”

10. However, despite these and other assurances to the consuming public, each of the Defendants has failed to follow and enforce its own social responsibility code when dealing with suppliers.

11. On April 24, 2013, Rana Plaza – an eight-story commercial building in Savar, Bangladesh that houses several of the garment factories used by Defendants – collapsed.

12. Rana Plaza was not built to local or national specifications, was not properly permitted, and had other open and obvious safety violations and defects.

13. The collapse of Rana Plaza caused the death of more than 1000 people, and injured more than 2500 people.

14. While each of the Defendants promised its consumers (as a means of generating revenue) that it ensures socially responsible working conditions, each of the Defendants has not, in fact, kept its promise.

15. The General Public has been, and continues to be, harmed by Defendants' conduct. NCL is a non-profit 501(c)(3) public interest, membership organization. NCL brings this action on behalf of the General Public pursuant to District of Columbia Code §28-3905(k)(1).

JURISDICTION AND VENUE

16. Jurisdiction of this Court is founded on D.C. Code § 11-921. This Complaint arises under the District of Columbia Consumer Protection Procedures Act, D.C. Code § 28-3901 *et seq.* and the Court, therefore, has subject matter jurisdiction thereunder.

17. Venue is proper in the District of Columbia. The claims asserted in this complaint arise, in part, within the District of Columbia. Plaintiff resides in Washington, D.C. and seeks to represent the interests of the general public of the District of Columbia. These transactions occurred in retail stores located in Washington, D.C. or online. Defendants transact business and have caused injury in Washington, D.C.

18. As a result of the facts alleged in this Complaint, this Court has personal jurisdiction over Defendants. Defendants market, distribute, and sell products to consumers in the District of Columbia. Defendants have transacted business in the District of Columbia; caused tortious injury

in the District of Columbia via acts or omissions occurring therein; and derived substantial revenue from products sold in the District of Columbia.

PARTIES

19. Plaintiff NCL is a non-profit 501(c)(3) public interest, membership organization located in the District of Columbia at 1701 K Street, #1200, NW, Washington, District of Columbia 20006. Prior to the filing of this lawsuit, NCL (through its agents) purchased online (a) a boys graphic tee from TCP; (b) a boys shorts from Walmart, and (c) a boys crewneck tee from JCPC.

20. Defendant Walmart, headquartered in Arkansas, operates a chain of discount department stores and warehouse stores in 28 countries around the world. Walmart is, and at all times was, accessible to residents of the District of Columbia. Walmart has locations in the District of Columbia at 99 H Street, N.W. and 5929 Georgia Avenue, N.W. At all relevant times, District of Columbia consumers also transacted business with Walmart through its www.walmart.com website.

21. Defendant TCP, headquartered in New Jersey, is an American specialty retailer of children's apparel and accessories. TCP has a retail location in the District of Columbia at 3100 14th Street, N.W. At all relevant times, District of Columbia consumers also transacted business with TCP through its website found at www.childrensplace.com.

22. Defendant JCPC, headquartered in Texas, is a chain of American mid-range department stores. JCPC heavily advertises in the District of Columbia and solicits business to its retail locations in Maryland and Virginia. Moreover, at all relevant times, District of Columbia consumers transacted business with JCPC through its website found at www.jcpenney.com.

THE INTERESTS OF NCL & THE GENERAL PUBLIC

23. Plaintiff acts for the benefit of the General Public as a Private Attorney General pursuant to District of Columbia Code §28-3905(k)(1).

24. NCL is a non-profit 501(c)(3) public interest, membership organization, and has worked diligently to promote the public interest. NCL encourages and promotes accurate labeling and marketing of consumer goods through advocacy to state and federal agencies, through educational outreach to the general public, and through litigation.

25. Moreover, from its earliest days, NCL has advocated on behalf of worker's rights including playing a role in establishing the 8-hour workday, child labor laws, and the minimum wage. NCL continues to promote safety and fairness across all employment sectors, and continues to fight to protect and improve workers' rights.

26. NCL has championed corporate social responsibility initiatives and commissioned a survey that demonstrates the importance of workers' rights on consumer spending habits.

27. Defendants marketed their products to District of Columbia residents online and through retail outlets with false representations that they are socially conscious with respect to workers rights and working conditions. Defendants have used their perceived social responsibility to advance their own goodwill and generate, maintain and increase sales amongst socially conscious consumers.

28. Upon information and belief, Defendants have caused harm and adverse effects to the General Public.

FACTUAL BACKGROUND

The Importance and Promotion of Corporate Social Responsibility

29. In 2006, NCL reported on the findings of a public opinion survey it had commissioned on the importance of corporate social responsibility viz-a-viz workers' rights.⁵

30. The NCL study found that nearly one in two Americans "believe the most important proof of corporate social responsibility is treating employees well." In addition, NCL reported that, "76 percent [of American consumers] believe that a company's treatment of its employees plays a big role in consumer purchasing decisions."

31. NCL predicted the future importance to American corporations of the perception that consumers hold as to corporate social responsibility: "rank-and-file Americans are becoming more knowledgeable than ever on socially responsible behavior, and this trend will influence businesses and increasingly benefit society."

32. Critically, the NCL survey found that the "[u]se of Internet technology is changing the way people learn about and determine which companies are socially responsible . . . 53 percent of Americans believe that their own online research is one of the most credible means by which to shape their opinions on deciding whether U.S. companies are being socially responsible."

33. In 2010, Forbes outlined two public opinion surveys on CSR. Specifically Forbes reported:

- 88% of consumers think companies should try to achieve their business goals while improving society;

⁵ http://www.nclnet.org/social_responsibility_all_about_worker_welfare_survey_says

- The average American consumer will drive nearly 11 minutes out of their way to buy a cause-marketing product; and
- Men were very supportive of CSR and cause-marketing initiatives, women were even more so, and mothers even more supportive than women in general.

34. In 2013, Forbes updated its prior report on corporate social responsibility.⁶

According to a then-recent survey:

- 30% of consumers planned to increase the amount of goods and/or services they bought from socially responsible companies in the coming year;
- 18% said they bought more from such companies in 2012 compared to 2011; and
- 25% avoided buying products from an enterprise because they thought it was not socially responsible.

35. The study also described how consumers researched a corporation before engaging in any transaction:

Consumers decide whether or not a company is socially responsible by reading the product packaging (41%), reading news about the organization (41%), and/or through their own research (38%). Major factors that determine whether or not someone considers a company to be socially responsible include *how employees are treated* (45%) and the impact on the environment (38%).

(Emphasis added).

36. According to a 2014 Consumer Reports National Research Center Survey Research Report, corporate social responsibility is a key priority for most Americans. In fact, according to

⁶ <http://www.forbes.com/sites/annefield/2013/04/05/consumers-like-social-responsibility-but-they-arent-sure-what-a-social-enterprise-is/>

this survey, 86% ranked “fair conditions for workers” as either a “very important” or “important” objective for them.

37. A 2014 global survey by Nielsen showed that internationally, 55% of consumers are willing to pay more for products that are socially or environmentally responsible.⁷ A Nielsen press release issued on June 17, 2014, explains the survey results:

“Consumers around the world are saying loud and clear that a brand’s social purpose is among the factors that influence purchase decisions,” said Amy Fenton, global leader of public development and sustainability, Nielsen. “This behavior is on the rise and it provides opportunities for meaningful impact in our communities, in addition to helping to grow share for brands.”

* * * * *

Said Fenton, “It’s no longer a question if consumers care about social impact. Consumers do care and show they do through their actions. Now the focus is on determining how your brand can effectively create shared value by marrying the appropriate social cause and consumer segments.”⁸

38. In 2015, another study and survey was released, by Cone Communications and Ebiquity (“CC&E Study”), demonstrating the increasing importance of CSR to consumers and their buying decisions:

Consumers are more likely to choose the products and services of companies with strong corporate social responsibility (CSR) practices, according to a study conducted by Cone Communications and Ebiquity. The study found that global consumers feel a personal accountability to address social and environmental issues, and they look to companies as partners in meeting those goals.⁹

⁷ <http://www.nielsen.com/us/en/insights/news/2014/nielsen-tv-the-importance-of-social-responsibility-is-growing-among-global-consumers.html>;

⁸ <http://www.nielsen.com/us/en/press-room/2014/global-consumers-are-willing-to-put-their-money-where-their-heart-is.html>

⁹ <http://pubs.ppai.org/2015/07/corporate-social-responsibility-increasingly-important-to-consumers/>

39. The CC&E Study reiterated NCL’s findings from 2006, and pointed out why website promises – like the promises of Defendants Walmart, JCPC, and TCP – are so important to generating sales from socially active consumers:

Nearly all global consumers expect companies to act responsibly, but half need to hear or see proof of a company’s responsibility before they will believe it. To prove these cynics wrong, companies must share CSR efforts and impacts across multiple touch points.

* * * * *

Consumers are willing to make personal sacrifices for the greater good. They are even willing to compromise quality, pay more or reduce how much they buy if it will have a positive impact on social or environmental issues.

* * * * *

Consumers view their role in creating social and environmental change as extending well beyond the cash register. Companies can serve as a catalyst for sparking donations, volunteerism and advocacy by giving consumers a spectrum of ways to get involved. Partnering with consumers in this way can serve as both a reputation and bottom-line builder.¹⁰

40. According to the CC&E Study, 84% of consumers say “whenever possible they try to purchase products or services that are socially or environmentally responsible.”

Walmart’s CSR Representations

41. Walmart’s “Standard for Suppliers” promises that its supply chain is socially responsible.

42. Walmart’s “Standards for Suppliers” are the company’s “fundamental expectations of its suppliers related to social and environmental conditions in all our markets. The Standards

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http://www.conecomm.com/stuff/contentmgr/files/0/2482ff6f22fe4753488d3fe37e948e3d/files/global_pdf_2015.pdf

are utilized to evaluate employment practices and environmental compliance in facilities producing merchandise for sale by Walmart.”¹¹

43. The Standard for Suppliers mandates that “[s]uppliers and their designated manufacturing facilities must fully comply with all applicable national and/or local laws and regulations, including, but not limited to, those related to labor, immigration, health and safety, and the environment.”

44. Walmart claims to forbid child labor.

45. Walmart also mandates its contractors and sub-contractors to have in place certain internal policies governing, *inter alia*, reasonable working hours, rest breaks, compensation, and safe and healthy food in cantinas.

46. The Standard for Suppliers further mandates that “[s]uppliers must provide workers with a safe and healthy work environment. Suppliers must take proactive measures to prevent workplace hazards.”

47. Walmart promises the General Public that it ensures compliance with its Standards by “visibly post[ing them] in English and in the local language(s) in a common area at all facilities that manufacture products for Walmart and its affiliates.”

48. In addition, violations of Walmart Standards for Suppliers “can be reported confidentially in a local language.” Walmart explains:

On the Standards for Suppliers poster that all factories are required to display, there is a local toll-free telephone number, email address and website that workers can use to anonymously report violations and other concerns. Violations of our Standards for Suppliers are confidentially reported to a third party with the capability of processing concerns in more than 140 languages. All reports are

¹¹ <https://web.archive.org/web/20130116162033/http://corporate.walmart.com/global-responsibility/ethical-sourcing/standards-for-suppliers>; see also <http://corporate.walmart.com/global-responsibility/ethical-sourcing/standards-for-suppliers>

directed to Walmart's Global Ethics Office, where they are referred for investigation and corrective action if needed.

49. Walmart further states that it does not rely exclusively on self-reporting. Rather, Walmart has a built-in auditing process:

Factory audits are a central pillar of Walmart's ethical sourcing program. Because Walmart does not own any of the factories that produce merchandise for our stores, regular audits are conducted to verify that a supplier is complying with Walmart's Standards for Suppliers and to find ways to strengthen working conditions and labor practices in factories.

50. Walmart auditors visit a factory and engage in an audit process which purportedly enables them to determine, *inter alia*, if:

- Workers are treated with dignity and respect;
- Well-defined hiring practices are followed, which include age verification and confirmation of the individual's eligibility to work in the country; and
- The working environment is clean, safe and well-maintained.

51. The Walmart auditor is supposed to conduct a factory tour, which includes employee interviews "on the production floor about the factory's compliance with Walmart's Standards for Suppliers" as well as "check equipment and safety mechanisms and inspect for any health, safety and environmental hazards."

52. Auditors audit not only direct suppliers, but subcontractors which "produce part or a component of a product, containing a Walmart private label or proprietary brand logo, including, but not limited to, a major component of a finished product that could be sold independently."

53. Walmart not only promises "accredited and internationally recognized auditing firms" but also takes steps to "ensure that all factory audits are conducted with integrity" through a system of re-audits conducted by the Walmart Ethical Sourcing Special Audit Team.

JCPC's CSR Representations

54. JCPC's "Supplier Principles" touts its history as a socially responsible retailer: "For more than a century, jcpenny and its subsidiaries have built a legacy of operating in an ethical and socially responsible manner."

55. JCPC claims that its Statement of Business Ethics is based on the Golden Rule: "Do unto others as you would have them do unto you." Specifically, "[s]uppliers who do business with jcpenny must share our values and ethical commitments." These include a commitment to "[c]omply with all applicable laws and regulations, *and* jcpenny's standards." (emphasis added)

56. Under the heading of "Working Conditions," the "Supplier Principles" states that JCPC suppliers must "maintain a safe workplace environment and comply with all applicable health and safety laws and jcpenny's standards," and "[p]rohibit the use of child labor."

57. Under the heading of "Socially Responsible Supply Chain," JCPC's Supplier Principles" states:

jcpenny is dedicated to preventing the sale of products produced at the expense of communities, workers or the environment. Since jcpenny is not the manufacturer of the finished consumer goods that we sell, we work with suppliers who share our commitment to a socially responsible supply chain and we expect our suppliers to:

- Comply with all applicable laws and regulations and jcpenny's standards including certification requirements.
- Develop processes and procedures for ensuring that material, component and service providers also conduct their business operations in a socially responsible manner.

58. JCPC promises to audit and ensure compliance:

jcpenny works with suppliers, industry groups and experts to identify best practices and to develop tools for assessing, monitoring and improving suppliers' performance and compliance. We require our suppliers to cooperate with all audit, assessment and investigation processes requested by jcpenny. If a supplier fails to

meet our requirements, we will take decisive corrective action, up to and including cancellation of contracts and termination of our relationship.

Suppliers are encouraged to contact jcpenny with any questions or concerns about our expectations and expected to report a potential ethical or legal violation involving jcpenny business. To that end, we provide a hotline, which can be accessed via a toll-free telephone number or website found at www.jcpjline.com.

TCP's CSR Representations

59. TCP “believe[s] protecting workers’ rights goes beyond compliance with a safe and healthy workplace.”

60. TCP’s “Supplier Code of Conduct” purports to “reflect internationally accepted norms and to align with industry best practice” which were further “informed by the International Labor Organization (ILO)’s core conventions, the United Nation’s Guiding Principles on Business and Human Rights, and the United States’ Occupational Safety & Health Administration’s (OSHA) law and regulations.”¹²

61. TCP claims that its “Code represents the foundation of our responsible sourcing commitment. We conducted workshops for factories in major sourcing markets in order to help factory managers understand our expectations and collaborate on solutions to some of their most pressing challenges.”

62. TCP’s “Supplier Code of Conduct” prohibits child labor and mandates compliance with all applicable laws and regulations as well as treaties and voluntary industry standards.

63. Under the heading of “A Safe and Healthy Workplace,” TCP promises the General Public that:

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http://www.childrensplace.com/wcsstore/GlobalSAS/images/tcp/common/2014_TCP_Supplier_Code_of_Conduct.pdf

Suppliers will provide workers with a safe and healthy workplace in compliance with all applicable laws and regulations, ensuring at a minimum, a safe building with proper fire safety equipment; sanitary facilities with adequate lighting and ventilation; and reasonable access to potable water and toilets. Where Suppliers provide or introduce worker housing, suppliers will also ensure that the same basic standards of hygiene and safety are applied in any residential facilities they directly or indirectly provide.

64. TCP also uses a system of internal and third-party auditors to “ensure compliance with our standards.”

65. TCP also touts a factoring monitoring to determine “true factory working conditions” by assessing “the working conditions of the facilities from which we source. Each audit involves a thorough inspection of the facility, private interviews with factory workers, as well as a review of compensation and attendance records.”

66. TCP describes Bangladesh as “a key sourcing country.”

The Fire at Rana Plaza

67. Bangladesh has more than 5,000 garment factories, handling orders for nearly all of the world’s top brands and retailers. Bangladesh has become the world’s second-leading exporter of clothing, (trailing only China), by delivering products at lower costs, in part by having the lowest wages in the world for garment workers.

68. The number of people working in the garment industry in Bangladesh has increased from 1.6 million in 2000 to 4 million in 2013.¹³

69. Due to a lack of basic standards for workplace health and safety – and the failure of Defendants to fulfill their audit and enforcement promises so publicly touted as part of each

¹³ http://www.nytimes.com/2013/05/23/world/asia/report-on-bangladesh-building-collapse-finds-widespread-blame.html?_r=0

Defendant's respective CSR platform – workers at garment factories in Bangladesh are subjected to a number of systemic human rights violations.

70. Many of Bangladesh's garment factories are housed in Rana Plaza, an eight-story commercial building in Savar, a sub-district in the Greater Dhaka Area, the Capital of Bangladesh.

71. The garment factories in the Rana Plaza building included New Wave Style, New Wave Bottoms, Ether Tex, Phantom Apparels, and Phantom Tax.¹⁴ These factories manufactured apparel for several brands, including brands carried and sold by Defendants.

72. After the Rana Plaza collapse, all Defendants uniformly disclaimed any involvement with the suppliers in Rana Plaza.¹⁵

73. When customs records and on-site documents proved Defendants' disclaimers false, contrary to their promises to monitor and enforce their various supplier codes, all Defendants uniformly disclaimed any obligation, liability, or responsibility for the conditions that led to the deaths and to the destruction.

74. At the time of the Rana Plaza collapse, Walmart sourced garments for sale in the District of Columbia (through its stores or website) from factories in the Rana Plaza building. Specifically, Walmart was listed as a customer on Ether Tex's website. Documents found at the scene indicate that apparel had been produced for Walmart at one of the factories in Rana Plaza.¹⁶

¹⁴ <http://news.priyo.com/2013/06/02/4-factory-owners-remanded-again-77672.html>

¹⁵ http://www.nytimes.com/2013/05/01/world/asia/retailers-split-on-bangladesh-factory-collapse.html?_r=0 (TCP claimed that "none of our apparel was in production" there "at the time of this terrible tragedy.") <http://www.forbes.com/sites/clareoconnor/2014/04/26/these-retailers-involved-in-bangladesh-factory-disaster-have-yet-to-compensate-victims/> ("J.C. Penney had no insight into the development and sourcing of Joe Fresh apparel produced in Rana Plaza last year,"); http://inthesetimes.com/working/entry/16613/one_year_after_rana_plaza_safety_issues_in_walmart_supply_chain_persist (Though Walmart denies being an "authorized" supplier to Rana, news reports found that one of the factories listed Walmart as a client.)

¹⁶ <http://www.nytimes.com/2013/05/15/business/six-retailers-join-bangladesh-factory-pact.html>

75. Much of TPC’s inventory—approximately 120,000 pounds of clothing just weeks prior to the collapse—was reportedly sourced at Rana Plaza via New Wave.¹⁷ Despite its prior promises, and despite its renewed pledges¹⁸ to the public after the Rana Plaza disaster, in an August 31, 2015, exposé, it was revealed that TPC’s inventory continues to be sourced at “unsafe sweatshops” in Dhaka, Bangladesh.¹⁹

76. JCPC, in turn, sourced its Joe Fresh store-within-a-store brand concept through Rana Plaza.²⁰

77. At the time of the Rana Plaza collapse, JCPC sourced garments for sale in the District of Columbia (through its website) from factories in the Rana Plaza building.²¹

78. At the time of the Rana Plaza collapse, TCP sourced garments for sale in the District of Columbia (through its store or website) from factories in the Rana Plaza Building.²²

79. Young “helpers” that worked at Rana Plaza earned 12 cents per hour; “junior operators” earned 22 cents per hour; and senior sewers were paid 24 cents per hour.²³

80. The construction of the Rana Plaza building did not meet even basic building safety standards. The Rana Plaza building was built without observing proper building standards or Bangladesh regulations. For example, Emdadul Islam, chief engineer of the state-run Capital Development authority reported that the developer had not received the proper building consent

¹⁷ <https://www.childrensplace.com/shop/ca/content/social-responsibility>;
<http://www.dailykos.com/story/2013/05/01/1206113/-Meet-the-retailers-that-won-t-help-victims-of-Bangladesh-factory-collapse#>; <http://projects.aljazeera.com/2015/08/rana-plaza/childrens-place.html>

¹⁸ <http://www.bangladeshworkersafety.org/about/about-the-alliance>; <http://bangladeshaccord.org/>

¹⁹ <http://projects.aljazeera.com/2015/08/rana-plaza/>

²⁰ <http://www.forbes.com/sites/clareoconnor/2014/04/26/these-retailers-involved-in-bangladesh-factory-disaster-have-yet-to-compensate-victims/>

²¹ <http://www.newsweek.com/year-after-bangladeshs-deadly-factory-collapse-western-companies-slow-compensate-248506>

²² *Id.*

²³ <http://www.globallabourrights.org/campaigns/factory-collapse-in-bangladesh>

and obtained a permit for only a five-story building from the local municipality. The building was illegally extended by three stories to a total of eight stories. Additionally, the building was constructed using inadequate building materials.

81. On April 23, 2013, cracks were noticed in the Rana Plaza building and the building was evacuated. While the shops and bank closed immediately, Sohel Rana (the owner of the building) told the media that the building was safe.

82. Abdur Razak Khan, an engineer, declared the building unsafe and requested a more thorough inspection by public authorities. Despite knowing that the building was unsafe, managers demanded workers return to work the following day. Many workers were threatened with a month's salary cut if they did not comply.

83. Despite significant warning signs that the building was uninhabitable (including, as detailed herein, illegal construction and at least one warning from an engineer the day before the collapse), the manufacturing companies required employees to come into work.

84. On April 24, 2013, Rana Plaza collapsed, causing the death of 1,129 people and injury to approximately 2,515 people. Many of the people killed and injured were women and children.

85. Eighty percent of the workers were young women, ages 18-20. The employees' standard shift was 13 to 14.5 hours, from 8:00am to 9:00pm or 10:30pm, with only two days off per month.

86. Despite their promises, Defendants failed to ensure compliance with their CSR standards and audit obligations, in that their suppliers failed to have safe and healthy working conditions for garment factory employees.

87. Despite their promises, Defendants failed to ensure compliance with their CSR standards and audit obligations, in that their suppliers employed children.

88. Defendants breached their promises by *inter alia*: failing to properly inspect the building; failing to ensure compliance with local construction standards; failing to ensure compliance with their own CSR standards; and, most significantly, failing to ensure the safety of factory workers.

89. Defendants knew, or with the exercise of reasonable diligence, should have known, that the Rana Plaza factories they used employed children.

90. Defendants knew, or with the exercise of reasonable diligence, should have known, that the Rana Plaza facility was not safe for workers.

91. The building's collapse was foreseeable. The Rana Plaza building had multiple problems that included:

- the upper floors of the Rana Plaza building were illegally constructed;
- Rana Plaza was not safe for industrial use, let alone for manufacturing requiring thousands of workers and heavy equipment;
- the WRAP audit certification of New Wave Style Ltd. had expired in October 2012 and had not been renewed as it had been in prior years;
- the Rana Plaza building was exhibiting clear warning signs of impending collapse, and fresh structural cracks were noted in the building the day before the collapse;
- Rana Plaza was ordered to be evacuated the day prior to or the day of the collapse;
- a number of large scale industrial diesel powered generators were prominently situated on several floors of Rana Plaza to deliver electricity during almost daily

power outages. The vibrations that emanated from these generators caused the structure of the building to be weakened;

- Rana Plaza did not comply with applicable regulations, building codes and building permit requirements;
- the Rana Plaza building was constructed with poor quality construction materials and the structure of Rana Plaza lacked the necessary reinforced steel; and
- the number of workers, heavy sewing machines and generators exerted a weight that Rana Plaza was not able to withstand.

92. Dara O'Rourke, an expert on workplace monitoring at the University of California, Berkeley reported on the Rana Plaza collapse: "Even in a situation of grave threat, when they saw cracks in the walls, factory managers [at Rana Plaza] thought it was too risky not to work because of the pressure on them from U.S. and European retailers to deliver their goods on time." O'Rourke added that the prices Western companies pay "are so low that they are at the root of why these factories are cutting corners on fire safety and building safety."²⁴

93. Defendants knew, prior to April 24, 2013, that Bangladesh factories, including garment factories, had an extremely poor record of workplace safety standards and industrial building standards. There had been a history of serious accidents and collapses at garment factories in Bangladesh in the period immediately preceding the collapse at Rana Plaza.

94. Rana Plaza is not an outlier situation. Numerous collapses and fires, which killed and injured workers, preceding the Rana Plaza collapse, should have put Defendants on notice. These prior tragedies include:

²⁴ <http://www.nytimes.com/2013/04/26/world/asia/bangladeshi-collapse-kills-many-garment-workers.html>

- a) January 2013 Smart Export Garment Ltd factory fire
- b) November 2012 Tazreen Fashions factory fire
- c) December 2010 Eurotext factory explosion
- d) February 2010 Garib & Garib Newaj Company factory fire
- e) March 2006 Sayem Fashions factory fire
- f) February 2006 Phoenix Building collapse
- g) February 2006 Jamuna Spinning Mill factory fire
- h) February 2006 KTS Textile Industries factory fire
- i) February 2006 Imam Group of Industries explosion
- j) April 2005 Spectrum Sweater factory collapse
- k) January 2005 Shan Knitting factory fire
- l) May 2004 Misco Supermarket fire
- m) 2002 Global Knitting factory fire
- n) August 2001, Mico Sweater Ltd factory fire
- o) The November 2000 Choudury Knitwear factory fire
- p) The 2000 Globe Knitting Ltd. Factory fire

95. Additionally, Defendants knew or should have known that the Bangladesh garment industry required significant oversight to ensure safe and healthy working conditions in garment factories, including oversight in relation to the structural integrity of buildings. In fact, Defendants' CSR marketing underscored this knowledge by requiring the audits for such conditions in the first place.

96. Defendants understood and reasonably foresaw that their business practice of contracting or subcontracting with Bangladeshi garment companies, including those in Rana Plaza,

would, without adequate supervision, inspection, and audits, put those workers at risk of suffering personal injury or death. Such understanding was the impetus behind Defendants' much lauded CRS standards and marketing.

COUNT I
(Violation of the District of Columbia Consumer Protection Procedures Act)
Against All Defendants

97. This Count is brought pursuant to the District of Columbia Consumer Protection Procedures Act ("CPPA"), D.C. Code § 28-3901 *et seq.*

98. This Count is alleged by Plaintiff against Defendants on behalf of itself and of the General Public of the District of Columbia pursuant to District of Columbia Code § 28-3905(k)(1)(A), (C) and (D).

99. D.C. Code § 28-3904 makes it an unlawful trade practice "whether or not any consumer is in fact misled, deceived or damaged thereby," to, among other things:

- (a) represent that goods or services have a source, sponsorship, approval, *certification*, accessories, *characteristics*, ingredients, uses, benefits, or quantities that they do not have;
- (e) misrepresent as to a material fact which has a tendency to mislead;
- (h) advertise or offer goods or services without the intent to sell them as advertised or offered; and
- (u) represent that the subject of a transaction has been supplied in accordance with a previous representation when it has not.

(emphasis added).

100. In marketing their goods, Defendants violated the above provisions of the CPPA by, *inter alia*:

- (i) as to § 28-3904(a), misrepresenting the certification of the factory conditions and workforce pay and safety, or misrepresenting the

characteristics of their goods as being manufactured in a safe environment free of child labor;

- (ii) as to § 28-3904(e), misrepresenting a material fact: that their suppliers were socially responsible, provided adequate pay and hours, did not use child labor, and otherwise provided safe working conditions;
- (iii) as to § 28-3904(h), advertising their goods as supplied via socially responsible manufacturing protocols with no intent to so provide, and in fact not supplying such good manufactured in such a manner; and
- (iv) as to §28-3904(u), supplying goods to consumers which do not conform to the corporate social responsibility basis of the transaction into which consumers who purchase from Defendants enter.

101. Plaintiff, on behalf of itself and the General Public of the District of Columbia, hereby seeks restitution, equitable and injunctive relief, and treble damages or statutory damages in the amount of \$1,500 per violation, whichever is greater, pursuant to D.C. Code § 28-3905(k)(2).

102. Plaintiff, on behalf of itself and the General Public, of the District of Columbia further seeks reasonable attorneys' fees and costs plus interest.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment against Defendants, and in favor of Plaintiff and the General Public, and a grant of the following relief:

- a) declaring that Defendants' conduct is in violation of the D.C. Consumer Protection Procedures Act;
- b) enjoining Defendants' conduct found to be in violation of the D.C. Consumer Protection Procedures Act;

- c) granting Plaintiff and the General Public of the District of Columbia treble damages or statutory damages in the amount of \$1,500 per violation, whichever is greater;
- d) granting Plaintiff its costs of prosecuting this action, including attorneys' fees, experts' fees and costs together with interest; and
- e) granting such other relief (including equitable relief) as this Court may deem just and proper.

JURY TRIAL DEMANDED

Plaintiff hereby demands a trial by jury on all issues so triable.

DATED: December 9, 2015

/s/ Tracy D. Rezvani

Tracy D. Rezvani (Bar No. 464293)

Richard M. Volin (Bar No. 457292)

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Counsel for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on this 9th Day of December 2015, I filed and served the foregoing on all counsel of record through the Court's CaseFileExpress system.

/s/ Tracy D. Rezvani