



Mark Oberstaedt Quoted in NJLJ Article, “In Retail Mark-Up Case, NJ Supreme Court May Soon Provide Clarity on ‘Ascertainable Loss’ Under the CFA”

In the News

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The New Jersey Supreme Court has granted certification to SPARC Group—the owner of brands including Aeropostale, Brooks Brothers, Eddie Bauer, and Forever 21—after the Appellate Division sided with plaintiff consumers in their claim over false advertising of clothing prices. The plaintiff’s complaint alleged that the defendant, Simon Properties Authentic Retail Properties, owner of brands such as Brooks Brothers, Eddie Bauer, and Forever 21, falsely advertised clothing at two Aeropostale stores. The Appellate Division decision in the case concluded that the “use of a fictitious former price” constitutes a violation of the CFA.

New Jersey Law Journal reporter, Colleen Murphy, reached out to [Mark Oberstaedt](#), Assistant Chair of Archer’s [Business Litigation Group](#) to get his thoughts on the case, and included his comments in the article, “In Retail Mark-Up Case, NJ Supreme Court May Soon Provide Clarity on ‘Ascertainable Loss’ Under the CFA,” published on June 22, 2023.

Mark commented, “This case presents the state’s highest court with the opportunity to clarify what constitutes an “ascertainable loss” under the New Jersey Consumer Fraud Act. The case also presents an interesting angle on injunctive relief available under the Consumer Fraud Act. It is not entirely clear how a trial court could fashion an appropriate injunction in a case like this and it will be interesting to see whether the Supreme Court takes on that issue.”

To read the article, [click here](#).

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