

IN THE CIRCUIT COURT OF THE TWELFTH JUDICIAL DISTRICT,
WILL COUNTY, ILLINOIS

JOLIET TEXTBOOKS, INC.,

Plaintiff,

v.

No.:

JOLIET JUNIOR COLLEGE, BOARD
OF TRUSTEES OF ILLINOIS
COMMUNITY COLLEGE DISTRICT 525,

17L000065

Defendant.

CLERK, CIRCUIT COURT
WILL COUNTY, ILLINOIS

17 JAN 24 PM 3:05

FILED

COMPLAINT

The Plaintiff, Joliet Textbooks Inc., by and through its attorneys, complain of the Defendant, Joliet Junior College, Board of Trustees of Illinois Community College District 525 , as follows:

THE PARTIES

1. Plaintiff, Joliet Textbooks, Inc., is an Illinois corporation with its principal place of business located at 1106 Houbolt Road, Joliet, Will County, Illinois. Plaintiff is in the business of selling textbooks and is the only bookstore located near Joliet Junior College.

2. Defendant, Joliet Junior College, Board of Trustees of Illinois Community College District 525, is a public institution of higher learning with its administrative offices and main academic campus located at 1215 Houbolt Road, Joliet, Will County, Illinois. Defendant owns and operates a bookstore at this location which is also in the business of selling textbooks.

3. In addition to selling text books, Defendant's store sells hats, sweatshirts, generic school supplies, and convenience type items targeted at

Initial case management set for

5/15/17 at: 9:00 am

01/25/17 09:59:33 WCCH

A7236

Joliet Junior College Students, including other sundries and products typical of a for-profit college themed store.

4. Plaintiff also sells similar type items, in addition to text books, and Plaintiff's store is located directly across from the entrance to Defendant's campus.

5. The distance between the parties' bookstores is approximately one-half mile, and Plaintiff's store is in direct commercial competition with that of Defendant.

**FACTS COMMON TO ALL COUNTS OF
THE COMPLAINT**

6. Plaintiff and Defendant operate the only brick-and-mortar stores in the immediate vicinity of Joliet Junior College's main campus, and both are in the business of selling used and new textbooks to students attending Joliet Junior College ("JJC").

7. Both Plaintiff and Defendant purchase used and new textbooks from the same publishing companies, and wholesalers, including Nebraska Book Company and MBS Textbook Exchange, Inc.

8. The final cost of a textbook purchased from one of these publishing company is increased 20-30% when sold in the marketplace pursuant to industry standards.

9. Defendant's bookstore enjoys certain institutional advantages over a private sector competitor like Plaintiff. Specifically, Defendant does not pay rent, does not have to generate a profit in order to remain a viable and functioning business, and is part of the institution which controls which books students will need for the academic periods at issue, as well control and direction over disbursement of Pell Grant and other financial aid monies.

7. Despite these institutional advantages, Plaintiff has operated a successful business selling used and new textbooks to JJC students and was a viable, functioning, and profitable business as the only brick-and-mortar competitor of Defendant's bookstore.

8. However, Plaintiff's status as a viable and profitable competitor of Defendant's bookstore suffered greatly.

9. Specifically, Defendant engaged in a concerted scheme to thwart competition in the market for the sale of used and new textbooks and to destroy competition in the marketplace by undermining Plaintiff's business through anti-competitive pricing strategies.

10. As part of its scheme to destroy competition in the sale of used and new textbooks, Defendant has authorized and engaged in the following conduct:

- a. Though it permits professors to speak with employees and agents of the Follett Corporation, Cengage Learning, Inc. Pearson Education, Inc. and other book sellers, it has precluded its professors from speaking with the owners and employees of Plaintiff so as to prevent Plaintiff from learning which books would be used for the upcoming semester, and thereby, preventing it from knowing which textbooks to order in advance of the upcoming academic year;
- b. sold used and new textbooks in the marketplace at below cost prices;
- c. provided illegal rebates, *i.e.* "Buyback Bucks," to students who

- sell used books back to Defendant so as to encourage them to purchase books in future academic years and making the final cost for those books below cost; and
- d. evaded the payment of sales taxes through the use of "Buyback Bucks" by calculating the sales tax using the sale price after the rebates are taken by the students, thereby selling textbooks at an artificially lower cost.
- e. Though text books are required to commence courses, and though the Pell Grant Program is designed to assist students in need (including the purchase of text books), the Defendant uses its authority and control over Pell Grant disbursement (34 CFR §690.76), to withhold payment to text book sellers such as Plaintiff until the student finishes 2/3 of his or her class at JJC, *i.e.* meets Satisfactory Academic Progress (SAP), which practice requires the Plaintiff to either refuse to sell text books to Pell Grant students, or forces the Plaintiff to self-finance the retail sale of text books to such students in the hopes that the student meets what JJC later determines to be SAP;
- f. Defendant drops the listed price of used books at its bookstore after selling out of such used books; as the Plaintiff has a price match guarantee, thus forcing Plaintiff to sell books at a lower profit margin or loss;

- g. Excludes the Plaintiff from attending student orientation days, while other business and vendors who did not compete with JJC were allowed to attend or post advertisements;
- h. Allows certain vendors to set-up text book buy-back stations on campus at semester's end, including the Follett Corporation, while excluding others such as Plaintiffs, which practice seeks to control the price and availability of used text books, and falsely set the value and availability of such books;

11. The intent and practices above are part and parcel of Defendant's scheme to destroy Plaintiffs business operations, and thereby, negate all competition in the sale of used and new textbooks to JJC students.

12. Defendant further engaged in anti-competitive practices by manipulating the sale price of its used and new books at below cost in one instance only to increase the prices in the future. This price manipulation was done with the intent to destroy competition in the market for the sale of used and new textbooks to JJC students.

13. Defendant's pricing schemes evidence an intent to establish a monopoly.

14. Defendant's pricing schemes evidence an intent to engage in predatory pricing in an effort to reduce competition in the marketplace.

15. Though the use of these pricing schemes to destroy Plaintiffs business, and thereby destroy competition in the marketplace, Defendant has a reasonable

prospect of recouping the lost profits for pricing used and new textbooks at below cost.

16. The aforementioned anti-competitive strategy results in the sale of textbooks much below Plaintiffs costs for selling the same textbook.

Count 1 - Violation of the Illinois Antitrust Act

17. Plaintiff restates and re-alleges Paragraphs 1 through 16.

18. Section 3 of the Illinois Antitrust Act (740 ILCS 10/3(1)(a)) prohibits the creation of monopoly, including any action to establish, maintain, use, or attempt to acquire monopoly power over any substantial part of trade or commerce of this State for the purpose of excluding competition or of controlling, fixing, or maintaining prices in such trade or commerce.

19. Defendant's status through exclusionary practices would, if successful, accomplish a monopoly or approach so close as to create a dangerous probability of a monopoly.

20. By engaging in the pricing scheme outlined above, Defendant has implemented a strategy to obtain a monopoly or a virtual monopoly over the sale of used and new textbooks by destroying Plaintiffs business, and thereby, provide Defendant virtually no competition in the marketplace.

21. By engaging in the pricing scheme outlined above, Defendant has implemented an anti-competitive strategy which results in the destruction of the only bookstore competing in the marketplace for used and new textbooks sold to JJC students, thereby demonstrating a reasonable likelihood that it will recoup its

investment in below-cost prices once Plaintiffs business is destroyed.

22. Since Plaintiff is the only other bookstore which caters to JJC students, its destruction through Defendant's anti-competitive pricing scheme would result in Defendant's complete dominance in the setting of prices for used and new textbooks sold to JJC students, and thereby, destroying competition.

WHEREFORE, Plaintiff, Joliet Textbooks, Inc., respectfully requests this Honorable Court enter judgment in its favor and against Defendant, Joliet Junior College, Board of Trustees of Illinois Community College District 525, and award the following relief:

- a. Temporarily and permanently enjoin Defendant from engaging in the unlawful pricing strategies in the sale of used and new textbooks to JJC students;
- b. Monetary damages and lost profits incurred by Plaintiff resulting from the unlawful pricing strategies utilized by Defendant; and
- c. Any and all relief this Court deems appropriate, including treble damages and attorney fees.

Count 2 - Tortious Interference with a Business Expectancy

23. Plaintiff restates and re-alleges Paragraphs 1 through 16.

24. Prior to the aforementioned pricing strategies implemented by Defendant, Plaintiff had a successful and profitable business selling used and new textbooks to JJC students for many years.

25. Plaintiff has an expectancy in the opportunity to continue to serve JJC

students and obtain future customers despite Defendant's anti-competitive efforts.

26. As evidence by the pricing strategies implemented by Defendant, it was aware that Plaintiff was successfully competing with Defendant's bookstore in selling used and new textbooks to JJC students.

27. Defendant has intentionally and maliciously interfered with Plaintiff's successful business by implementing the aforementioned anti-competitive pricing strategies, misuse of its authority over Pell Grant disbursement, and control over financial aid.

28. Plaintiff has sustained damages and lost profits as a result of the pricing strategies implemented by Defendant.

WHEREFORE, Plaintiff, Joliet Textbooks, Inc., respectfully requests this Honorable Court enter judgment in its favor and against Defendant, Joliet Junior College, Board of Trustees of Illinois Community College District 525, and award the following relief:

- a. Temporarily and permanently enjoin Defendant from engaging in the unlawful pricing strategies in the sale of used and new textbooks to JJC students;
- b. Monetary damages and lost profits incurred by Plaintiff resulting from the unlawful pricing strategies utilized by Defendant; and
- c. Any and all relief this Court deems appropriate.

Count 3 – Complaint For Declaratory Relief And Permanent Injunction

University Credit and Retail Sales Act
110 ILCS 115/1 et. seq.

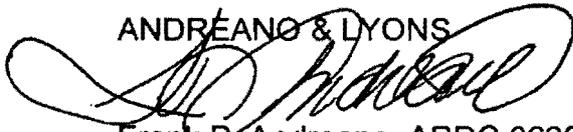
29. Plaintiff restates and re-alleges Paragraphs 1 through 16.
30. At all times relevant hereto there was in effect the University Credit and Retail Sales Act ("Act"), 110 ILCS 115/0 01 *et. seq.*, which Act prohibits in pertinent part the operation of a "*retail store carrying any line of general merchandise to be operated by that institution or to be operated on property held or leased for the use of the institution when such an operation can reasonably be expected to be in competition with private retail merchants in the community.*"
31. The further prohibits the institution from making credit sales when the credit extended is the credit of the retail store or the institution itself.
32. The Defendant's bookstore is in competition with retail merchants in the community, including the Plaintiff, and the goods sold by Plaintiff's bookstore are available in quantity to meet reasonable expected student demand, and the Defendant makes and extends credit sales to students upon the retail store of the Defendant itself.
33. There is an actual dispute between the parties as to whether the Defendant is an institution of higher learning within the meaning of the Act.
34. Unless restrained by the Court, your defendant will continue to operate its bookstore in violation of the Act, and to the detriment of the Plaintiff and other local mercharts, such as itself;

WHEREFORE, Plaintiff, Joliet Textbooks, Inc., respectfully requests this

Honorable Court provide the following relief:

- a. Declare the Defendant in violation of the University Credit and Retail Sales Act;
- b. Enjoin further violations of the University Credit and Retail Sales Act;
- c. Any and all relief this Court deems appropriate.

ANDREANO & LYONS



Frank P. Andreano, ARDC 06202756

Attorneys for the Plaintiff, Joliet Textbooks Inc.

58 N. Chicago Street, Suite 506

Joliet, Illinois 60432

Telephone: (815) 242-2000

Frank@andreanolaw.com