

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT – CHANCERY DIVISION

RENEE BURKE, MD, P.C., on behalf of
itself and others similarly situated,

Plaintiffs,

v.

CANDELA CORPORATION,

Defendant.

Case No.:

2016CH15692
CALENDAR/ROOM 02
TIME 00:00
Case Action

COMPLAINT

Plaintiff, RENEE BURKE, MD, P.C., by and through its attorneys, Law Offices of Arnold H. Landis, P.C., complains as follows against CANDELA CORPORATION:

1. Plaintiff, RENEE BURKE, MD, P.C., is an Illinois professional corporation.
2. Defendant, CANDELA CORPORATION, is a Delaware Corporation that has its principal office in Wayland, MA.
3. On or about May 30, 2015, Plaintiff purchased the Ultra Shape System (System) from Defendant.
4. Defendant's salespeople represented, inter alia, that Plaintiff's patients would "lose two dress sizes in just three treatments" and that "clinical studies showed an average 3.3-6.3 cm reduction" (hereinafter referred to as the "Representations").
5. The Representations were not true.
6. Plaintiff relied on Defendant's representations in purchasing the system.
7. Plaintiff treated dozens of patients utilizing the System.
8. Plaintiff's patients did not realize the results promised by Defendant.

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CIRCUIT COURT OF COOK COUNTY, ILLINOIS
CHANCERY DIVISION
CLERK
CORREY BROWN

9. Plaintiff has suffered damages as a result of the failure of the System to perform as promised and no longer uses the System.

10. Section 2 of the Illinois Consumer Fraud and Deceptive Business Practices Act, 815 ILCS 505/2, provides:

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. In construing this section consideration shall be given to the interpretations of the Federal Trade Commission and the federal courts relating to Section 5(a) of the Federal Trade Commission Act.

11. The conduct of Defendant in making the Representations was deceptive in that Plaintiff believed that the System would perform as set forth in the Representations.

12. Upon information and belief, Defendant's conduct was knowing and willful and carried out for pecuniary gain.

13. Plaintiff was damaged in that it bought and is liable to pay for the System despite the fact that it does not perform as set forth in the Representations.

14. Plaintiff brings this claim pursuant to §2-801 of the Illinois Code of Civil Procedure on his own behalf and on behalf of a class. The class consists of all persons and businesses who purchased the System and did not realize the results set forth in the Representations.

15. The class is so numerous that joinder of all members is impracticable. Upon information and belief, Defendant has sold the System to numerous persons and businesses who did not realize the results set forth in the Representations.

16. There are questions of law or fact common to the class, which predominate over any questions affecting only individual members of the class. The common questions of law or fact include, inter alia, whether the misrepresentation complained of has the tendency or capacity to deceive consumers.

17. Plaintiff will fairly and adequately represent the interests of the class members. Plaintiff has suffered pecuniary injury as a result of Defendant's practices. Plaintiff has retained experienced counsel to prosecute this action. Neither Plaintiff nor its counsel has any interest that would lead them to not vigorously prosecute this action.

18. A class action is an appropriate means for the fair and efficient prosecution of this litigation. Most of the class members are not aware of the wrong or their right to legal redress, making a class action essential. In the absence of a class action, this serious wrong will likely remain unredressed.

WHEREFORE, Plaintiff, RENEE BURKE, MD, P.C., respectfully requests that this Honorable Court enter judgment in its favor and in favor of the class members and against Defendant, Candela Corporation, as follows:

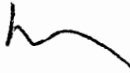
- a. Confirming the class as aforesaid;
- b. Ordering Defendant to reimburse Plaintiff and the class members for any money Defendant received for the purchase of the System;
- c. Ordering Defendant to arrange for the return of the System to Defendant from Plaintiff and the class members;

d. Ordering Defendant to indemnify Plaintiff and the class members from any liability under any financing agreement for the purchase of the System;

e. Awarding Plaintiff and the class members compensatory and punitive damages and their attorney's fees pursuant to the Illinois Consumer Fraud and Deceptive Business Practices Act, as well as litigation costs and expenses; and,

f. Granting such other and further relief as the Court deems proper.

RENEE BURKE, MD, P.C., on behalf of
itself and others similarly situated,

By: 
Arnold H. Landis, their attorney

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