Clerk of the Superior Court By Angus McLoone, Deputy Date 09/19/2018 Time 16:07:42 Description Amount ----- CASE# CV2018-011370 CIVIL NEW COMPLAINT 333.00 MARK BRNOVICH 1 TOTAL AMOUNT 0.00 ATTORNEY GENERAL Receipt# 26809552 2 (Firm Bar No. 14000) MITCHELL ALLEE (Bar No. 031815) ASSISTANT ATTORNEY GENERAL 4 2005 N. Central Ave., Suite 100 Phoenix, Arizona 85004 5 Telephone: (602) 542-3725 Facsimile: (602) 542-4377 6 consumer@azag.gov Attorneys for State of Arizona 8 IN THE SUPERIOR COURT OF THE STATE OF ARIZONA 9 IN AND FOR THE COUNTY OF MARICOPA 10 CV 2018-011370 STATE OF ARIZONA, ex rel. MARK Case No: BRNOVICH, Attorney General, 11 CIVIL COMPLAINT FOR 12 Plaintiff, INJUNCTIVE AND OTHER RELIEF 13 (Non Classified: Consumer Fraud) v. 14 PEARL BRIDAL PHX, LLC, an Arizona 15 limited liability company; and ERICA MILTENBERGER and TYSON 16 MILTENBERGER, husband and wife, 17 Defendants. 18 19 Plaintiff State of Arizona, ex rel. Mark Brnovich, Attorney General (the "State"), 20 for its Civil Complaint for Injunctive and Other Relief (the "Complaint") against 21 defendants Pearl Bridal PHX, LLC, an Arizona limited liability company, Erica 22 Miltenberger and Tyson Miltenberger, alleges the following: 23 PARTIES / JURISDICTION / VENUE 24 1. The State brings this action pursuant to the Arizona Consumer Fraud Act, 25 Ariz. Rev. Stat. ("A:R.S.") §§ 44-1521 to 44-1534 (the "Consumer Fraud Act") to obtain

injunctive relief, restitution, disgorgement of profits, gains, and gross receipts, civil

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penalties, attorneys' fees and costs, investigative expenses and other relief to prevent the unlawful acts and practices alleged in this Complaint, and to remedy the consequences of past unlawful acts and practices.

- 2. The Consumer Fraud Act authorizes the State to bring this action.
- 3. Pearl Bridal PHX ("Pearl Bridal") is an Arizona limited liability company that conducted business in Arizona from at least August 15, 2017, to May 13, 2018.
- 4. At all times relevant to this Complaint, Defendant Erica Miltenberger was an owner and managing member of Pearl Bridal.
- 5. At all times relevant to this Complaint, Erica Miltenberger directed and actively participated in the unlawful activities described in this Complaint both as an individual and through the operation of Pearl Bridal.
- 6. On information and belief, at all times relevant to this Complaint, Erica Miltenberger resided in and operated Pearl Bridal in Maricopa County, Arizona.
- 7. At all times relevant to this Complaint, Defendant Tyson Miltenberger was an owner of Pearl Bridal.
- 8. At all times relevant to this Complaint, Defendant Tyson Miltenberger oversaw the marketing and advertising conducted by Pearl Bridal and actively participated in the unlawful activities described in this Complaint.
- 9. On information and belief, at all times relevant to this Complaint, Tyson Miltenberger resided in and operated Pearl Bridal in Maricopa County, Arizona.
- 10. On information and belief, at all times relevant to this Complaint, Erica Miltenberger and Tyson Miltenberger were married, and were acting on behalf of and for the benefit of their marital community.
- 11. All events, acts and practices described in, and relevant to, this Complaint took place in Maricopa County, Arizona.

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- 12. The Arizona Superior Court has jurisdiction over this Complaint and the parties necessary for the Court to enter the appropriate orders both prior to and following a determination of liability pursuant to A.R.S. § 44-1528.
 - 13. Venue is proper in Maricopa County pursuant to A.R.S. § 12-401.

FACTUAL BACKGROUND

- 14. From approximately August 15, 2017, to May 13, 2018, Pearl Bridal sold bridal gowns and other wedding related clothing (collectively, "wedding apparel") from a location in Maricopa County, Arizona.
- 15. Unless otherwise noted, all business practices described herein occurred from August 15, 2017, to May 13, 2018.
- 16. Pearl Bridal and Erica Miltenberger operated a storefront location in Phoenix, Arizona where consumers tried on wedding apparel and ordered merchandise that would be delivered at a later time.
- 17. Pearl Bridal and Erica Miltenberger accepted hundreds of orders and hundreds of thousands of dollars in prepayments from consumers for wedding apparel.
- 18. Pearl Bridal, Erica Miltenberger, and Tyson Miltenberger (collectively, "the Defendants") advertised the wedding apparel offered by Pearl Bridal via a website, email solicitations, social media, in-person oral communications, and exhibits at bridal expos.
- 19. The Defendants' website and other advertisements pictured high-end wedding dresses, and claimed that all wedding dresses sold by Pearl Bridal were custom-made and designed by Pearl Bridal.
- 20. The Defendants also benefited from positive online reviews posted on websites such as Google.com, Yelp.com, TheKnot.com, and WeddingWire.com.
- 21. Once brides-to-be came into the storefront location of Pearl Bridal, they (and their parties) were given free alcoholic beverages, often by Defendant Tyson Miltenberger, despite the fact that Pearl Bridal did not have the required liquor license.

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- 22. The brides-to-be were shown a few dozen wedding dresses, and encouraged to try on some of these dresses.
- 23. Consumers were repeatedly told by Erica Miltenberger or Pearl Bridal employees that the dresses on display were designed by Pearl Bridal and that the dresses purchased by consumers would be similar dresses, custom-made-to-order in-house by Pearl Bridal and/or Erica Miltenberger.
- 24. The Defendants entitled consumers with discounted prices for their wedding apparel, consistently claiming that they were giving consumers discounts of 70% or more.
- 26. Once the consumers had selected dresses they wished to order, Defendants Pearl Bridal and Erica Miltenberger demanded full payment up-front.
- 27. Defendants Erica Miltenberger and Pearl Bridal took consumers' prepayments and told consumers that the wedding dresses and other apparel would take a long time to make, typically 6-9 months.
- 28. Defendants Erica Miltenberger and Pearl Bridal usually provided consumers with a date that their apparel would be available, but frequently failed to provide the wedding apparel by the specified date and requested additional time to complete the orders.
- 29. By May 13, 2018, Defendant Pearl Bridal had collected more than \$277,000 in prepayments for wedding apparel that had not been delivered to consumers.
- 30. Pearl Bridal had collected this enormous amount of consumer prepayments through deceptive and unfair business practices.
- 31. The pictures on the Defendants' website and on the solicitations they posted on social media and emailed to consumers were actually dresses produced by other designers, and not designed by an in-house designer working for Pearl Bridal.

- 32. On information and belief, Pearl Bridal also did not sell the dresses pictured on the Defendants' website or in the solicitations they posted on social media and emailed to consumers.
- 33. At least some of the glowing, online reviews of Pearl Bridal were posted by the Defendants and their agents, who falsely represented themselves as actual consumers providing objective reviews.
- 34. For example, Defendant Erica Miltenberger posted the following five-star review under the username "Erica M." in October of 2017:



00000-10/6/2017

Peyton was great! She helped me find my dream dress. This bridal shop was lots of fun and made our experience very unique.

35. As another example, Defendant Tyson Miltenberger posted the following five-star reviews under the username "Tyson M." in August of 2017 and February of 2018:



8/3/2017

My experience with my sister was over the topl if you are into the show." Say yes to the Dress" you'll absolutely love this place, After getting served our Mimosa's on arrival we went back into their consultation room where they got to know us and what we were looking for. My sister found the dress of her dreams, not to mention that she got to meet the designer that designed her dress. Payton the stylist helped so much and the styles and quality of the dresses were very good. This place was on point! The Mimosa man, who shares my name didn't let us down. If you're in the market for your dress! highly recommend this place. I never leave reviews, but I just had to with my experience here.



2/21/2018 - G Updated review

Updated Review: Went in two weeks ago with my sister to pick up her dress and looked fabulous and came in two weeks before it was supposed to. We got the same service as we did before, but this time we enjoyed Spritzers with fresh rasberries: I've never experienced such warm welcoming service and I can see Pearl Bridal just growing and growing. The updates in the shop were really nice too. Shabby Chic to a T. Thank you Melody for making our experience pure awesome! I will recommend to everyone!!

2 2 2 2 9/30/2017 · Previous review

It was the mimosa's, the service and the dress that all came together to have my sister find the dress of her dreams. Seriously the best experience that I've had. We went to a couple of other bridal shops down the street and just felt that they didn't deliver. Thanks Pearl Bridal for your help in making sissy's dream come truelli Read less

- 36. Pearl Bridal also combated real consumer reviews with false information, arguing that "Erica Kristine" was the designer of the dresses and that the dresses took 6-9 months to arrive because, as Defendants repeatedly claimed in their advertising, they were "all custom dresses."
- 37. Instead, at least the majority of the dresses that Defendants Pearl Bridal and Erica Miltenberger provided to consumers were ordered from mass production facilities in China.
- 38. The dresses were not what consumers ordered, they were not custom-made, and most of the consumers who received dresses also had to make significant alterations for the dresses to even be wearable.
- 39. Despite the ongoing failures to timely fulfill orders and provide the merchandise as advertised, Defendants Pearl Bridal and Erica Miltenberger continued to accept prepayments from additional consumers and continued to advertise custom-made dresses into May of 2018.
- 40. On or about May 14, 2018, the Defendants abruptly closed their store in Phoenix and replaced the advertising on their website with a message informing consumers that Pearl Bridal had closed.
- 41. The Defendants attributed the closure of Pearl Bridal to "bad reviews," but promised that they would still be "shipping bridal gowns to [each consumer's] address."
- 42. At the time of closing, the Defendants had accepted at least \$277,000 in prepayments for at least 286 orders that were never delivered to consumers.
- 43. After the closure, at least 286 consumers did not receive refunds of their prepayments or the merchandise that they paid for, and those who received any merchandise at all, received poor-quality, mass-produced dresses that were not what they had ordered.

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44. On information and belief, at all times relevant to this Complaint, the Defendants knew or should have known that the practices described above were of the nature prohibited by the Consumer Fraud Act.

COUNT I

VIOLATIONS OF THE ARIZONA CONSUMER FRAUD ACT

(A.R.S. § 44-1521, et seq.)

- 45. The allegations set forth in the previous paragraphs are incorporated by reference as though fully recited in the following paragraphs.
- 46. The Arizona Consumer Fraud Act prohibits the act, use or employment of deception, or deceptive or unfair acts or practices in connection with the sale or advertisement of merchandise.
- 47. Defendants Erica Miltenberger and Pearl Bridal engaged in deceptive and unfair acts and practices in connection with the sale and advertisement of merchandise by employing or directing others to employ the following practices:
 - a. Misrepresenting the timeframe in which the wedding apparel ordered by consumers would be available;
 - b. Accepting orders and prepayments for merchandise that would never be provided to the consumers or would not be provided within a commercially reasonable time;
 - c. Requiring consumers to make prepayments for wedding apparel when the prepayments would not be used to fulfill customer orders;
 - d. Misrepresenting to customers that the Defendants had already placed consumer orders when they knew or should have known that the orders had not been placed;
 - e. Misrepresenting to consumers that outstanding orders would still be fulfilled and delivered to consumers after Pearl Bridal closed; and

- f. Failing to issue refunds of prepayments to consumers after Defendants Erica Miltenberger and Pearl Bridal knew or should have known that the orders placed by consumers would not be fulfilled.
- 48. Defendants Erica Miltenberger, Tyson Miltenberger, and Pearl Bridal engaged in deceptive and unfair acts and practices in connection with the sale and advertisement of merchandise by employing or directing others to employ the following practices:
 - a. Misrepresenting to consumers that the wedding gowns sold by Pearl Bridal were custom gowns and were designed by Pearl Bridal, when many of the gowns were mass produced overseas and not designed by Pearl Bridal;
 - b. Advertising Pearl Bridal using photos of wedding dresses that were not designed or sold by Pearl Bridal;
 - c. Advertising Pearl Bridal using false statements or fake consumer reviews posted by individuals acting on behalf of Pearl Bridal; and
 - d. Advertising merchandise that the Defendants knew or should have known would never be provided to the consumer or would not be provided within a commercially reasonable time.
- 49. The Defendants' acts, practices, and conduct described in the preceding paragraphs were deceptive, unfair, or constituted fraud, false pretenses, false promises, misrepresentations, or concealments, suppressions, or omissions of material facts to consumers under A.R.S. § 44-1522(A).
- 50. At all relevant times, the Defendants knew or should have known that the deceptive and unfair practices described in the preceding paragraphs were of the nature prohibited by the Consumer Fraud Act, and, therefore, the Defendants acted willfully, as defined by A.R.S. § 44-1531(B), while engaging in the acts, practices, and conduct described in this Complaint.

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51. Pursuant to A.R.S. §§ 44-1528, 1531, and 1534, the Defendants' willful violations of the Consumer Fraud Act entitle the State to awards of restitution, disgorgement, civil penalties, attorneys' fees and costs, investigative expenses, and injunctive relief.

PRAYER FOR RELIEF

Wherefore, the State requests that the Court:

- 1. Pursuant to A.R.S. § 44-1528(A)(1) and (4), permanently enjoin, restrain and prohibit the Defendants, their agents, servants, employees, attorneys and any entity established by the Defendants, whether a partnership, corporation or limited liability company, and those persons in active concert or participation with the Defendants, directly or indirectly, who receive this the Court's order, from:
 - A. Engaging in any and all deceptive acts or practices, fraud, false pretense, false promises, misrepresentations, and/or concealment, suppression or omission of material fact in violation of the Consumer Fraud Act as currently written or as amended in the future;
 - B. Representing that products are available for delivery and sale when products are not available;
 - C. Refusing to refund consumer prepayments for products that cannot be provided to consumers as agreed; and
 - D. Selling or advertising custom apparel in the state of Arizona;
- 2. Pursuant to A.R.S. § 44-1528(A)(2), order all Defendants, jointly and severally, to pay restitution of monies that were acquired by any practice alleged in this Complaint that violated the Arizona Consumer Fraud Act, in an amount currently believed to be no less than \$277,000;
- 3. Pursuant to A.R.S. § 44-1528(A)(3), order Defendants, jointly and severally, to disgorge any profits, gain, gross receipts or other benefit obtained by means

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of any unlawful act or practice as alleged in this Complaint, to be paid to the State for deposit in the consumer remediation subaccount of the consumer restitution and remediation revolving fund;

- 4. Pursuant to A.R.S. § 44-1531, order Defendants, jointly and severally, to pay the State a civil penalty of not more than \$10,000 for each willful violation of the Arizona Consumer Fraud Act;
- 5. Pursuant to A.R.S. § 44-1534, order Defendants, jointly and severally, to reimburse the Attorney General for the costs of investigation and reasonable attorneys' fees; and
 - 6. Order such other relief as the Court deems just and proper.

 DATED this 19th day of September, 2018.

MARK BRNOVICH, ATTORNEY GENERAL

BY: /s/ Mitchell Allee
Mitchell W. Allee
Assistant Attorney General
Attorney for State of Arizona