**IN THE CHANCERY COURT FOR ROANE COUNTY, TENNESSEE**
**FOR THE NINTH JUDICIAL DISTRICT AT KINGSTON**

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| **STATE OF TENNESSEE, *ex rel.*** | ) | |
| **ROBERT E. COOPER, JR., ATTORNEY** | ) | |
| **GENERAL and REPORTER,** | ) | |
| | ) | |
| **Plaintiff,** | ) | |
| | ) | **No. _____** |
| **v.** | ) | |
| | ) | |
| | ) | |
| **FUN FOODS,** | ) | |
| | ) | |
| **Defendant.** | ) | |

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## COMPLAINT

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This civil law enforcement proceeding is brought in the name of the State of Tennessee, by and through Robert E. Cooper, Jr., Attorney General and Reporter, at the request of Mary Clement, the Director of the Division of Consumer Affairs of the Department of Commerce and Insurance ("Director"). The Attorney General and the Director have reason to believe that the above-named Defendant has violated the TCPA by unreasonably raising the price of gasoline in response to a disaster, that this action is in the public interest and that the conduct constitutes unfair and/or deceptive acts and practices in violation of Tenn. Code Ann. §§ 47-18-104(b)(34).

### DEFENDANT

1. Fun Foods is a sole proprietorship in Harriman, Tennessee. Fun Foods is engaged in the business of operating a convenience store and selling gasoline to the consuming public. Fun Foods' principal place of business is 1833 South Roane Street, Harriman, Tennessee.

### JURISDICTION AND VENUE

2. This Court exercises jurisdiction pursuant to the provisions of § 47-18-108.

3. Venue is proper in Roane County pursuant to Tenn. Code Ann. § 47-18-108(a)(3)

because it is the county in Tennessee where the alleged unfair and deceptive acts and practices took place.

## FACTUAL ALLEGATIONS

4. Defendant is a convenience store which offers for sale and sells various goods, including gasoline, to consumers.

5. On September 13, 2008, Hurricane Ike struck land in Texas. Anticipation of this Hurricane and the damage resulting from the Hurricane led to shortages in the supply of gasoline in parts of the nation.

6. On September 13, 2008, Defendant was advertising and selling regular unleaded gasoline for $4.99 per gallon.

7. The cost to Defendant of the regular unleaded gasoline sold on September 13, 2008 was $3.61 per gallon.

8. Defendant did not have a reasonable basis for this price differential, because a significant portion of the gas in the station's tank had already been purchased at a lower price.

9. Upon information and belief, the amount of gasoline sold by Defendant at the unreasonable price was approximately four hundred forty-five (445) gallons.

10. As a result of the price increase, consumers have suffered an ascertainable loss.

## VIOLATIONS OF THE LAW

The Plaintiff incorporates by reference and realleges each and every allegation contained in Paragraphs 4 through 10.

9. At all times relevant to the Complaint, the conduct alleged in this Complaint occurred in the conduct of "trade," "commerce" and/or a "consumer transaction" and the offering of, or providing of "good" and/or "services" as defined in Tenn. Code Ann. §47-18-103(5),(10) and (11). The offering for sale and sale of regular unleaded gasoline at Defendant's business also constitutes selling of "gasoline" under Tenn. Code Ann. § 47-18-5102(4).

10. Tenn. Code Ann. § 47-18-104(b)(34) provides that it is a violation of the Tennessee Consumer Protection Act to engage in the conduct of "[u]nreasonably raising prices or unreasonably restricting supplies or essential goods, commodities or services in direct response to a crime, act of terrorism, war or natural disaster, regardless of whether such crime, act of terrorism, war or natural disaster occurred in the State of Tennessee."

11. By unreasonably raising prices of essential goods, commodities or services in direct response to a natural disaster, regardless of whether such natural disaster occurred in the state of Tennessee, Defendant has violated Tenn. Code Ann. § 47-18-104(b)(34).

**DEMAND FOR RELIEF**

WHEREFORE, THE STATE OF TENNESSEE PRAYS:

1. That this Complaint be filed without cost bond as provided by Tenn. Code Ann. § 47-18-116.

2. That this Court adjudge and decree that the Defendant has engaged in the aforementioned acts or practices which violate the Tennessee Consumer Protection Act of 1977.

3. That this Court enjoin, temporarily and permanently, Defendant from engaging in the aforesaid acts or practices, which are in violation the Tennessee Consumer Protection Act of 1977.

4. That this Court adjudge and decree that the Defendant is liable to the State for the reasonable costs and expenses of the investigation and prosecution of the Defendant's actions, including attorneys' fees, as provided by Tenn. Code Ann. §§ 47-18-108(a)(5) and (b)(4).

5. That this Court make such orders or render such judgments as may be necessary to restore to any consumer or other person any ascertainable losses suffered by reason of the alleged violations of the Tennessee Consumer Protection Act of 1977, including statutory interest as provide by Tenn. Code Ann. § 47-18-108(b)(1).

6. That this Court adjudge and decree that the Defendant pay civil penalties of not more than one thousand dollars ($1,000.00) per violation to the State as provided by Tenn. Code Ann. § 47-18-108(b)(3).

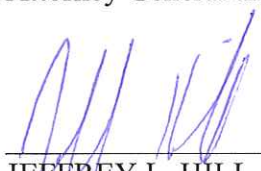
7. That all costs in this cause be taxed against Defendant.

8. That this Court grant Plaintiff such other and further relief as this Court deems just and proper.

RESPECTFULLY SUBMITTED,

STATE OF TENNESSEE

ROBERT E. COOPER, JR., B.P.R. 010934
Attorney General and Reporter



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