

IN THE DISTRICT COURT FOR OKLAHOMA COUNTY

STATE OF OKLAHOMA

MAY 16 2012

STATE OF OKLAHOMA, *ex rel.*, )  
E. SCOTT PRUITT, )  
ATTORNEY GENERAL OF OKLAHOMA, )

PATRICIA PRESLEY, COURT CLERK  
by \_\_\_\_\_ DEPUTY

Plaintiff, )

v. )

SKECHERS USA, INC., )  
d/b/a SKECHERS, a Delaware corporation, )

Defendant. )

CJ - 2012 - 2975

Case No. \_\_\_\_\_

BARBARA SWINTON

PETITION

COMES NOW, Plaintiff, the State of Oklahoma ex rel. E. Scott Pruitt, Attorney General, and for its causes of action against Defendant, alleges and states as follows:

JURISDICTION AND VENUE

1. That this petition is filed and these proceedings are instituted under the provisions under the provisions of the Oklahoma Consumer Protection Act, 15 O.S. 2001 §751 et. seq.
2. That standing of the Attorney General to commence this action is conferred by 15 O.S. 2001 §756.1.
3. That this Court is the proper venue for this action.

THE PARTIES

4. That this action is brought in the public interest by E. Scott Pruitt, the duly elected Attorney General for the State of Oklahoma, to prohibit Skechers USA, Inc. from engaging in unfair and deceptive trade practices by employing deception, fraud, misrepresentation; unfair practices by concealing, suppressing and omitting material facts, thereby causing substantial injury to consumers in Oklahoma in violation of 15 O.S. 2001 §753 (20).

5. That the Attorney General brings this action to obtain civil penalties and injunctive relief pursuant to 15 O.S. 2001 § 756.1 and 15 O.S. 2001 § 761.1 of the Oklahoma Consumer Protection Act.

6. The Defendant, Skechers USA, Inc., is incorporated in Delaware with its principal place of business in Manhattan Beach, California. The Defendant has marketed, distributed, and sold shoe products to consumers throughout the United States, including Oklahoma. Skechers USA, Inc. is a publicly traded corporation.

### **GENERAL ALLEGATIONS**

The State of Oklahoma alleges as follows:

7. The Defendant has made health-related claims in the marketing, packaging, advertising, offering, and selling of its line of rocker-bottom shoe products including Shape-ups, Tone-ups, and the Skechers Resistance Runner that were not substantiated by competent and reliable scientific evidence at the time the claims were made.

8. The Defendant has asserted that its rocker-bottom shoe products cause one to lose weight, burn calories, improve one's circulation, fight cellulite, firm, tone or strengthen thigh, buttock, and back muscles without adequate support.

### **SPECIFIC ALLEGATIONS**

9. Rocker-bottom shoes are shoes that are designed to be unstable when worn. Unlike traditional shoes, rocker-bottom shoes contain a deeper, curved midsole that purports to simulate walking on sand the kinematics of long-distance, barefoot runners.

10. In 2008, following the commercial success of a smaller competitor Masai Barefoot Technology with rocker-bottom shoes, Skechers USA, Inc. launched its own line of rocker-bottom footwear products nationwide.

11. Skechers' version of a rocker-bottom shoe is made of firm and compressible

polyurethane and is much lighter and more flexible than the MBT version.

12. Skechers sells its line of rocker-bottom shoes to consumers in Oklahoma through its websites (myshapeups.com and skechers.com), through its own brick-and-mortar retail stores, and through third party retailers like Famous Footwear, Footlocker, Dillard's and others.

13. From the product launch until the present, Skechers rocker-bottom shoes have sold at various retail prices, but have most often been sold for between \$110 and \$120.

14. In the course of marketing its rocker-bottom shoe lines including in advertisements such as Exhibit A to this Complaint, Skechers has asserted a wide-range of purported benefits, including that its products:

- Create or promote weight loss;
- Burn more calories;
- Firm buttocks muscles;
- Reduce or fight cellulite;
- Improve blood circulation;
- Firm calf muscles;
- Reduce joint stress;
- Tone and firm thigh muscles;
- Tighten abdominal muscles;
- Strengthen back muscles;
- Improve sleep; and
- Reduce stress

when it did not have competent and reliable scientific evidence to substantiate the claims at the time that they were made.

15. Skechers has marketed its rocker-bottom footwear products to both men and women, but has focused most of its marketing efforts on 20-30 something fitness conscious or fitness aspiring women.

16. In marketing to women, Skechers has especially highlighted the purported ability of its rocker-bottom shoes to cause weight loss and firm buttocks muscles as shown in Exhibit B to the Petition.

17. The Defendant mislead consumers, including those in Oklahoma, as to matter of facts in its advertisements, product labeling, and marketing materials about its rocker-bottom shoe products.

## **VIOLATIONS OF LAW**

### **OKLAHOMA CONSUMER PROTECTION ACT**

18. The State incorporates by reference and re-alleges each allegation contained in paragraph 1-17.

19. All of the acts and practices engaged in and employed by the Defendant as alleged herein, are unfair or deceptive acts in Oklahoma, which are declared unlawful by the Oklahoma Consumer Protection Act, 15 O.S. 2001 §751 et. seq.

20. All of the acts and practices engaged in and employed by the Defendant as alleged herein are deceptive or unfair to the consumer or other persons in violation of 15 O.S. 2001 §753 (20).

## **PRAYER FOR RELIEF**

**WHEREFORE**, the Plaintiff, State of Oklahoma, prays for relief as follows:

21. That the Court adjudge and decree that Skechers USA, Inc. has engaged in the conduct complained of in this Petition.

22. That the Court adjudge and decree that Skechers USA, Inc., acts and practices as

described in this Petition are in violation of Oklahoma law.

23. That the Court issue a permanent injunction, authorized by 15 O.S. §756.1 (A)(2), enjoining and restraining the Skechers USA, Inc., their officers, agents, servants, employees, successors, assigns, and all persons in active concert or participating with Skechers USA, Inc., from engaging in the conduct outlined in this Petition.

24. That the Court assess a civil penalty, pursuant to 15 O.S. §761.1 (C) of up to \$10,000 per violation, against Skechers USA, Inc., for each and every violation of 15 O.S. §753 (20) caused by the conduct outlined in this Petition.

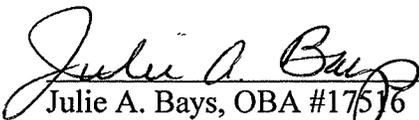
25. That the Court make such orders pursuant to 15 O.S. §756.1 as it deems appropriate to provide for restitution or damages to consumers of money acquired by Skechers USA, Inc. as a result of the conduct outlined in this Petition.

26. That the Court award and allow the Plaintiff, State of Oklahoma, to recover from Skechers USA, Inc. the costs and expenses of this action, including reasonable attorney's fees and investigative costs as provided by 15 O.S. §761.1 (D).

27. For such other relief as the Court may deem just and proper to fully and effectively dissipate the effect of the conduct complained of in this Petition or which may otherwise seem proper to the Court.

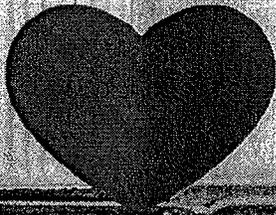
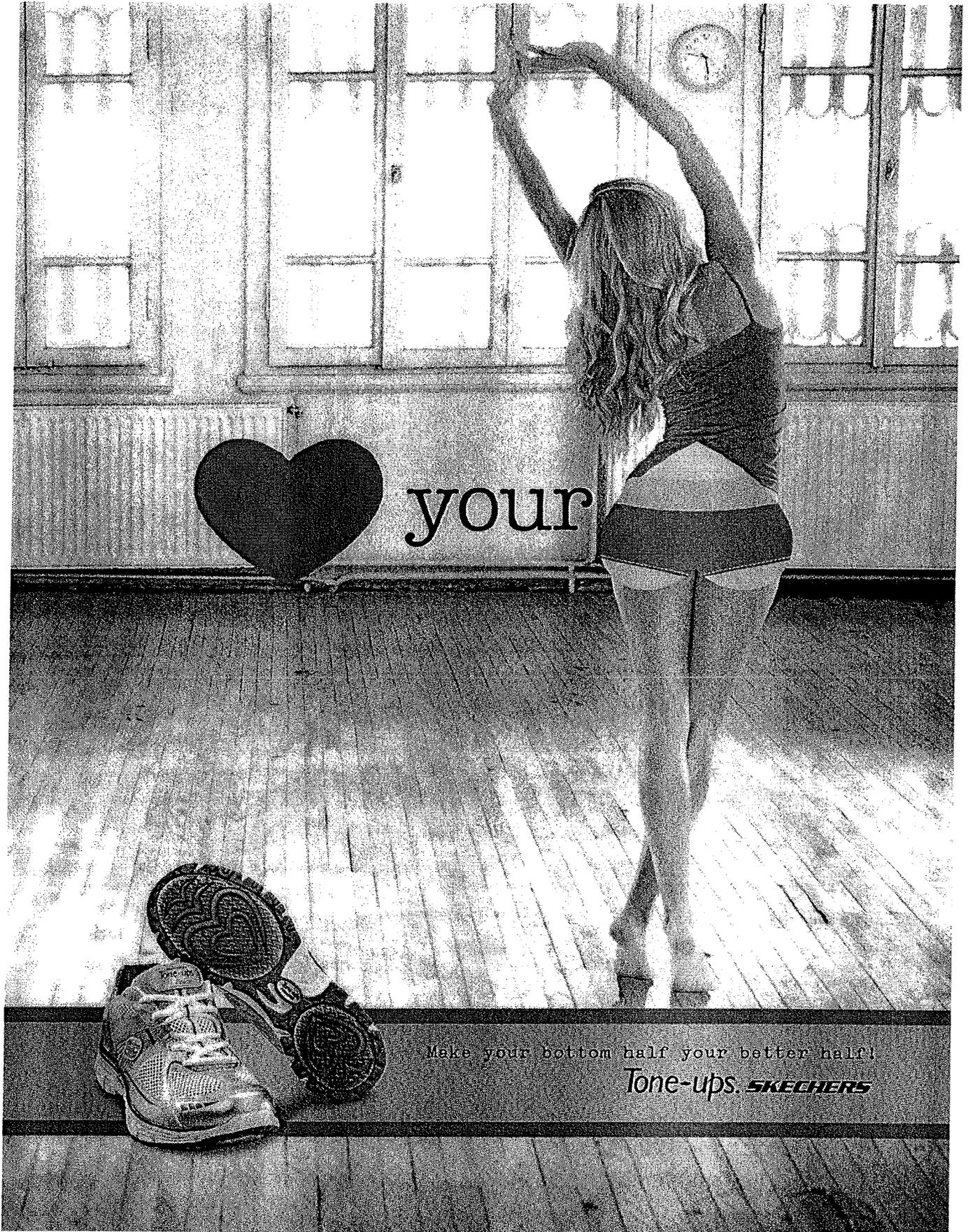
**DATED** this 15 day of May, 2012.

E. SCOTT PRUITT  
ATTORNEY GENERAL

  
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**EXHIBIT B**



your

Make your bottom half your better half!

Tone-ups. **SKECHERS**