

DISTRICT COURT, CITY AND COUNTY OF
DENVER, STATE OF COLORADO

1437 Bannock Street
Denver, CO 80202

DATE FILED: March 21, 2024 4:23 PM
FILING ID: 5D7B13EF9A929
CASE NUMBER: 2024CV30459

Plaintiff:

STATE OF COLORADO, *ex rel.* PHILIP J. WEISER,
ATTORNEY GENERAL,

v.

Defendants:

THE KROGER CO.; ALBERTSONS COMPANIES,
INC.; and C&S WHOLESALE GROCERS, LLC.

▲ COURT USE ONLY ▲

Case No. 2024CV030459

Division: 414

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**DEFENDANT C&S WHOLESALE GROCERS, LLC'S PARTIAL JOINDER IN
CO-DEFENDANTS' MOTION TO DISMISS**

Defendant C&S Wholesale Grocers, LLC (“C&S”), hereby submits a partial joinder to the Motion to Dismiss filed on March 21, 2024, by Defendants The Kroger Co. (“Kroger”) and Albertsons Companies, Inc. (“Albertsons”) (collectively “Co-Defendants”):

1. Plaintiff asserted two causes of action in its Complaint dated February 14, 2024. The first cause of action alleges violation of C.R.S. § 6-7-104, and is brought against C&S, Kroger, and Albertsons. The second cause of action alleges violation of C.R.S. § 6-4-104, and is brought against Kroger and Albertsons only.

2. Co-Defendants filed a Motion to Dismiss on March 21, 2024, seeking dismissal of both claims pursuant to C.R.C.P. 12(b)(5) or that the Court otherwise strike Plaintiff’s request for a nationwide injunction, pursuant to C.R.C.P. 12(f).

3. As Plaintiff’s first cause of action for violation of C.R.S. § 6-4-107 is asserted against all Defendants, C&S joins and adopts Co-Defendants’ motion and all arguments set forth in part I.A. of their Motion to Dismiss relating to the first cause of action, as if fully set forth herein.

4. C&S is not a defendant named in Plaintiff’s second cause of action for violation of C.R.S. § 6-4-104. Accordingly, C&S does not join Co-Defendant’s motion or arguments with respect to dismissal of the second cause of action and otherwise takes no position as to the motion or arguments related to that claim.

5. Pursuant to C.R.C.P. 121 § 1-15(8), counsel for C&S conferred with counsel for Plaintiff regarding the grounds for this motion, and in particular C&S’s partial joinder to Co-Defendants’ Motion to Dismiss. Plaintiff takes no position on C&S joining Co-Defendants’

Motion to Dismiss, but Plaintiff does oppose the relief requested in Co-Defendants' Motion to Dismiss.

WHEREFORE, C&S hereby joins and adopts the arguments in part I.A. of Co-Defendants' Motion to Dismiss dated March 21, 2024, with respect to the first cause of action only, and asks the Court to dismiss that claim pursuant to C.R.C.P. 12(b)(5), or otherwise strike the Plaintiff's request for nationwide injunctive relief, pursuant to C.R.C.P. 12(f).

Dated: March 21, 2024.

Respectfully submitted,

s/ Kathryn A. Reilly

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of **DEFENDANT C&S WHOLESALE GROCERS, LLC'S PARTIAL JOINDER IN CO-DEFENDANTS' MOTION TO DISMISS** was filed using Colorado Courts E-Filing and served via the manner indicated below on March 21, 2024 to the following:

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