

STATE OF NEW MEXICO
COUNTY OF SANTA FE
FIRST JUDICIAL DISTRICT

No. D-101-CV-2013-01293

ARTHUR ARGUEDAS, BARBARA ARGUEDAS,
and HELEN BRANSFORD,

Plaintiffs,

v.

GARRETT SEAWRIGHT, et al.,

Defendants.

AMENDED ORDER

On March 28, 2016, pursuant to notice, this Court held a hearing on Defendant Garrett Seawright's Motion to Dismiss Plaintiffs' Amended Complaint. Plaintiffs and Defendant Seawright appeared through counsel and presented argument on this fully briefed motion. The Court made rulings on the record and directed the parties to prepare an order reflecting those rulings.

On May 9, 2016, the Court entered an Order reflecting its March 28, 2016 rulings. At the parties' request, the Court hereby WITHDRAWS its May 9, 2016 Order and substitutes this Amended Order in its place.

NOW THEREFORE, the motion to dismiss Plaintiffs' class claims is GRANTED, as the Court finds as a matter of law that there is no right of class members to recover statutory damages under the New Mexico Unfair Practices Act ("UPA"), NMSA (1978), Section 57-12-1, *et seq.*, and the Amended Complaint specifically defines the class to exclude any individual or

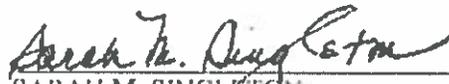
EXHIBIT A

entity that suffered actual damages. All class claims asserted in Plaintiffs' Amended Complaint are accordingly dismissed with prejudice.

In addition, while the Court finds that the facts alleged in Plaintiffs' Amended Complaint, taken as true for purposes of the motion to dismiss, state a cause of action for a deceptive trade practice against Defendant Seawright, Plaintiffs' counsel has advised the Court that it would be economically impractical to proceed only on Plaintiffs' individual UPA claims. Therefore, this Court finds that final dismissal of Plaintiffs' Amended Class Complaint with prejudice will best serve the interests of judicial economy in this case.

IT IS THEREFORE ORDERED THAT Defendant Garrett Seawright's Motion to Dismiss Plaintiffs' Amended Complaint is GRANTED and Plaintiffs' Amended Class Complaint is hereby dismissed with prejudice.

Any motion pending as of May 10, 2016 is DENIED as moot. A final judgment shall issue forthwith.



SARAH M. SINGLETON
District Judge, Div. 2
DDDM

Form submitted by all parties. [sms]