

People v Quality King Distribs., Inc.

2020 NY Slip Op 35292(U)

September 23, 2020

Supreme Court, New York County

Docket Number: Index No. 451296/2020

Judge: Eileen A. Rakower

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This opinion is uncorrected and not selected for official publication.

SUPREME COURT OF THE STATE OF NEW YORK – NEW YORK COUNTY

PRESENT: Hon. EILEEN A. RAKOWER

PART 6

Justice

**PEOPLE OF THE STATE OF NEW YORK, by
LETITIA JAMES, Attorney General of the State of
New York,**

**INDEX NO. 451296/2020
MOTION DATE
MOTION SEQ. NO. 1,2
MOTION CAL. NO.**

Petitioners,

- against-

**QUALITY KING DISTRIBUTORS, INC., and
GLENN NUSSDORF,**

Respondents.

The following papers, numbered 1 to _____ were read on this motion for/to
PAPERS NUMBERED

Notice of Motion/ Order to Show Cause – Affidavits – Exhibits ...

Answer – Affidavits – Exhibits _____

Replying Affidavits

Cross-Motion: Yes X No

On September 22, 2020, the Court heard oral argument via SKYPE. On balance, considering all of the Lysol products sold immediately before and after the March 7 Governor’s Emergency Declaration, the price increases charged by Quality King were not, as a matter of law, unconscionable or overall extreme. While there may have been isolated instances of price increases for Lysol 19 to certain customers which were seemingly increased to the extreme, Quality King did not uniformly raise their prices on Lysol products to these customers. When considered among the panoply of Lysol products offered for sale at that time (which includes Lysol wipes and other size Lysol cans, among other Lysol products, and which Petitioner urges should all be included should the court fashion injunctive relief), all of which were shown to be vital and necessary for health and safety, the pricing overall did not indicate any use of unfair leverage, an abuse of bargaining power or unconscionable means; nor did the pricing represent a gross disparity between the price of the goods and their value measured by the price at which they were sold immediately prior to March 7, 2020. Quality King demonstrated that their prices were competitive and even lower than their competitors who were offering the same products in the same market. Additionally, Quality King demonstrated their own increased cost for Lysol 19.

For the reasons stated on the record, the Petition is denied (Motion Sequence 1). The motion to dismiss (Motion Sequence 2) is granted to the extent that the

Petition is dismissed as to Glenn Nussdorf and is denied to the extent that the motion seeks to dismiss on the basis that GBL §396-R is unconstitutional.

This constitutes the Decision and Order of the Court. All other relief requested is denied.

Dated: September 23, 2020

ENTER: 

J.S.C.
HON. EILEEN A. RAKOWER

Check one: **FINAL DISPOSITION** **NON-FINAL DISPOSITION**