

**JURY TRIAL DEMANDED**  
**IN THE UNITED STATES DISTRICT COURT**  
**FOR THE EASTERN DISTRICT OF MISSOURI**  
**EASTERN DIVISION**

WEST MORELAND SERVICE INC.,  
G.N.W. ENTERPRISES, INC., and  
HALLS FERRY SERVICE, LLC.

Plaintiffs,

vs.

QUIKTRIP CORPORATION,

Defendant.

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Cause No. 4:13-CV-00653

**COMPLAINT**

COME NOW plaintiffs West Moreland Service, Inc., G.N.W. Enterprises, Inc., and Halls Ferry Service, L.L.C. , by and through their counsel, and for their cause of action against Defendant Quiktrip Corporation in this Complaint state the following:

**Parties**

1. Plaintiffs West Moreland Service, Inc., G.N.W. Enterprises, Inc. and Halls Ferry Service, L.L.C. were at all times relevant herein corporate entities under Missouri law, and independent owners of gas stations in the St. Louis metropolitan area.

2. Defendant QuikTrip Corporation is a corporation duly operating under the laws of the State of Missouri, which receives gasoline directly from a refinery, which it distributes exclusively to the multiple retail gas station operations it owns in the St. Louis metropolitan area, thus, causing Defendant to be both a distributor and retailer.

**Jurisdiction and Venue**

3. The court has jurisdiction over this matter pursuant to 28 U.S.C Section 1331, 15 U.S.C. Section 13(a), known as the Robinson-Patman Act, 15 U.S.C. Section 2, known as the Sherman Act, and its power of pendant jurisdiction pursuant to Missouri Revised Statute Section 416.615, known as the Motor Fuel Marketing Act.

4. Venue is proper under 28 U.S.C 1391 (b)(1) because the defendants are deemed to reside in the Eastern District and pursuant to 28 U.S.C. 1391 (c). Venue is also proper because the events giving rise to this action occurred in this District.

### **Introduction**

5. On or about July 1, 2011 and continuing to this day, defendant QuikTrip began and has engaged in a price war with plaintiffs and other gas station owners in the St. Louis metropolitan area, with QuikTrip posting reduced pricing changes for its gasoline on almost a daily basis, and at times changing its posted gasoline prices several times in the course of a day.

6. The pricing of gasoline by Quick Trip during this period has been predatory because, based on information and belief, QuikTrip has been pricing its gasoline for customers at a price lower than QuikTrip's costs.

7. As a result of QuikTrip's said predatory pricing, plaintiffs have been forced to lower their retail prices for gasoline in order to maintain customers and remain in business.

8. Defendant QuikTrip has engaged in this gasoline predatory price war in an effort to monopolize the sale of retail gasoline in the St. Louis metropolitan marketplace.

9. As a result of QuikTrip's below cost predatory pricing, plaintiffs have been forced to set prices for gasoline below their costs in order to sustain their presence in the marketplace.

10. Defendant QuikTrip has engaged in this predatory price war of selling gasoline below its costs in order to dominate the marketplace in a manner that will allow it to recoup any losses it incurred as a result of its selling gasoline below its cost.

11. The predatory price war engaged in by QuikTrip has forced independent gas station owners out of the St. Louis marketplace, including plaintiffs Westmoreland and GNW Enterprises.

12. The predatory price war engaged in by QuikTrip has caused injury and damage to plaintiffs and other independent gas station owners in the St. Louis marketplace.

13. The predatory price war engaged in by QuikTrip has caused injury to competition in the retail sale of gasoline in the St. Louis marketplace, which will ultimately cause harm to consumers in the form of higher gasoline prices dictated by QuikTrip.

14. QuikTrip has a history of predatory pricing, as demonstrated by the findings of the Attorney General of Missouri in an action brought against QuikTrip by the State of Missouri in 1999, a matter ultimately ruled upon by the Missouri Supreme Court in 2004, in which QuikTrip conceded that it had sold gasoline below cost.

15. Because QuikTrip is both the distributor and retailer of gasoline it is able to engage in predatory pricing.

#### **COUNT I**

##### **Robinson-Patman Act Violation**

16. This court has jurisdiction pursuant to 15 U.S.C. Section 13, known as the Robinson-Patman Act.

17. Plaintiffs reallege and incorporate herein by reference paragraphs 1 through 15 of this Complaint.

18. The purpose of the Robinson-Patman Act is to provide the public protection against predatory price cutting.

19. Defendant has engaged in predatory pricing as aforestated, with the effect of substantially lessening competition for the retail sale of gasoline in the St. Louis marketplace.

20. Defendant QuikTrip's actions as aforestated have caused plaintiffs' damages, including loss of their businesses profitability, value, and their ability to survive in the marketplace.

#### **COUNT II**

##### **Sherman Act Violation**

21. This court has jurisdiction pursuant to 15 U.S.C. Section 2, known as the Sherman Act.

22. Plaintiffs reallege and incorporate herein by reference paragraphs 1 through 15 of this Complaint.

23. The purpose of the Sherman Act is to protect the public against monopoly economic power.

24. The predatory pricing actions of defendant QuikTrip as aforestated demonstrate QuikTrip's intent to monopolize the retail sale of gasoline in the St. Louis area marketplace, and further demonstrate that there is a dangerous possibility of QuikTrip achieving monopoly power.

25. Defendant QuikTrip has engaged in the aforestated below cost predatory pricing in an attempt to monopolize the retail gasoline marketplace in the St. Louis metropolitan area.

26. Defendant QuikTrip's actions as aforestated have caused plaintiffs' damages, including loss of their businesses profitability, value, and their ability to survive in the marketplace.

### **COUNT III**

#### **Missouri Motor Fuel Marketing Act Violation**

27. This court has jurisdiction pursuant to its powers of pendant jurisdiction, and pursuant to Section 416.615 RS Mo., known as the Motor Fuel Marketing Act.

28. Plaintiffs reallege and incorporate herein by reference paragraphs 1 through 15 of this Complaint.

29. The Missouri Motor Fuel Marketing Act ("MFMA") was created for the purpose of preventing predatory pricing in the sale of gasoline to the public that causes monopolistic takeovers, which ultimately harm consumers in the form of higher prices for gas being extracted by the gas station businesses with monopoly power.

30. As a direct and proximate result of QuikTrip's engaging in unfair competition in selling motor fuel below cost, and being both a distributor and retailer of gasoline, plaintiffs were and have been forced to lower the price of their gasoline sold to the public to below their costs of doing business.

31. As a direct and proximate result of QuikTrip's engaging in unfair competition in selling motor fuel below cost and acting as both a distributor and retailer, plaintiffs resisted lowering their price in order to maintain the ability to cover their costs of doing business, but were unable to compete with QuikTrip's pricing.

32. As a direct and proximate result of QuikTrip's aforestated predatory pricing of gasoline in the St. Louis area marketplace, plaintiffs have been injured by being forced to sell gas to the public below their costs of doing business, threatening plaintiffs' survival in the marketplace.

33. Defendant QuikTrip has engaged in the aforementioned action of selling and manipulating the price it charges the public for gasoline in order to injure competition in the marketplace.

34. Defendant QuikTrip has engaged in the aforementioned below cost pricing action to divert customers for gasoline from plaintiffs in order to drive plaintiffs out of business.

35. The aforestated unfair competition actions engaged in by defendant QuikTrip have forced gasoline stations to exit from the market, and pose an imminent threat to plaintiffs remaining in the marketplace.

36. Defendant QuikTrip's actions as aforestated have caused plaintiffs' damages, including loss of their businesses profitability, value, and their ability to survive in the marketplace.

#### **PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiffs pray that this Honorable Court enter the following as a judgment against defendant as to Counts I through III:

- (1) enjoin the unlawful predatory pricing practices of defendant QuikTrip;
- (2) award plaintiffs' treble damages for the injuries sustained by them in an amount in excess of \$50 million, their reasonable attorney's fees, costs of court, prejudgment and post judgment interest allowed by law;
- (3) impose civil penalties on defendant QuikTrip pursuant to Section 416.615;
- (4) enjoin QuikTrip from being both a distributor and retailer of gasoline;

(5) and provide for such additional relief as this Honorable Court deems just and proper under the circumstances.

Respectfully submitted,  
/S/ ERIC E. VICKERS

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