

MAY 8, 2019 | NEWS

Walmart Ordered To Pay \$4 Million In Attorneys' Fees And Costs

CHARLOTTE, NC — The United States District Court for the Eastern District of North Carolina has ordered Walmart to pay \$4,136,168.75 in attorneys' fees and costs which were incurred by Variety Stores, Inc. during its successful prosecution of claims of willful trademark infringement against Walmart.

Earlier this year, following a two-day trial, a jury awarded Variety a total of \$95,536,846.71 in disgorged profits and damages resulting from Walmart's willful infringement of Variety's federally-registered BACKYARD trademark. The two-day trial followed a trial in October 2018 during which the jury found Walmart's use of BACKYARD GRILL in connection with grills and grilling accessories to infringe North Carolina-based Variety Stores, Inc.'s BACKYARD trademark rights. The October jury had further found Walmart's infringement to be willful.

Variety Stores, Inc. is a wholly owned subsidiary of Variety Wholesalers, Inc. and operates Roses, Roses Express, Maxway, and other discount stores across the South and Midwest. Variety has owned and used its BACKYARD trademark since 1993. It filed suit against Walmart in 2014 after Walmart launched its BACKYARD GRILL brand.

Throughout this trademark infringement litigation, Variety has been represented by W. Thad Adams, III, Samuel A. Long, and Christina Davidson Trimmer of Shumaker, Loop & Kendrick LLP, and Scott P. Shaw of Call & Jensen PC. *The case is Variety Stores, Inc. v. Wal-Mart Stores, Inc.*, case number 5:14-cv-217-BO, in the U.S. District Court for the Eastern District of North Carolina Western Division.

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