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Medicap in Adel sues parent corporation

By JEFF ECKHOFF • jeckhoff@dmreg.com • March 17, 2010

An Adel pharmacy is one of seven Medicap and Medicine Shoppe businesses seeking more than \$5 million because of what the franchisees call fraudulent and improper conduct by a parent corporation that unfairly rewrote the rules of their contract.

A class-action lawsuit filed last week in federal court in Ohio contends that Cardinal Health of Columbus, parent corporation of the two pharmacy chains, committed fraud and breach of contract when it tried to rewrite franchise agreements last year.

Court papers say Cardinal, which billed the move as a way to boost lagging franchisees, offered three choices to the more than 600 franchises. Stores were given the option of doing nothing, buying out of their franchises or paying 55 percent of their expected royalties and rewriting the contracts under a new system.

Toni Sumpter, owner of the Medicap in Adel, said the lawsuit follows years of declining services to store owners since a Cardinal subsidiary purchased Iowa-based Medicap in 2003. The new owners failed to provide things such as marketing support and store-brand products, she said, but still demanded roughly 5 percent of every franchise's gross receipts.

Court papers say the rewritten franchise contracts, which were supposed to take effect only if 95 percent of franchises agreed, instead were instituted with far less approval. Documents say some franchises paid a "grossly unfair early termination penalty," while others were "left paying a fee that was unfair for fewer services in support of brands and systems which are little more than shadows of their former selves."

Terry Burnside, general manager and senior vice president responsible for Medicine Shoppe and Medicap Pharmacy operations, last week issued a statement stressing that Cardinal officials "firmly believe that our franchise options are fair and equitable and that franchisees were provided full opportunity to determine which option would be most beneficial for their business."

Sumpter said she ignored the offer of a new contract because "in my case, I would have had to borrow over \$1 million."

The lawsuit, if approved as a class action, seeks unspecified monetary damages as well as to have more than 600 Medicap and Medicine Shoppe franchise contracts declared to be "cancelled, annulled, repudiated or ... otherwise unenforceable."

