

In The News

Ellen Robbins Talks Deceptive Pricing Lawsuits With the ICSC

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The International Council of Shopping Centers (ICSC) recently interviewed Akerman class action defense attorney Ellen Robbins about what legal issues retailers should be tracking in 2025. Robbins discussed the rise in legal actions against retailers for “perpetual discounts” and deceptive pricing practices. Plaintiffs’ firms are increasingly using automated software to identify violations of Federal Trade Commission regulations, which require that any advertised “reference price” must have been charged for a reasonable period within the past 90 days. Many lawsuits allege false advertising when retailers fail to meet this standard.

Robbins highlights the uncertainty around compliance, as there are no clear guidelines on how long a product must be sold at its original price before being discounted. To reduce legal risks, she advises maintaining a promotions calendar and considering arbitration clauses in customer agreements, emphasizing that a defensible pricing strategy can help mitigate potential damages and reputational harm.

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