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The Honorable Ron Latz
Chair, Judiciary and Public Safety Committee
Minnesota Senate
3105 Minnesota Senate Building
Saint Paul, MN 55155

Subject: *S.F. 1332 by Senator Ron Latz*

Dear Chair Latz,

I write in strong support of SF 1332. This bill will restore and reaffirm Minnesota's commitment to consumer protection and enforcement of its statutory fraud laws through the private attorney general statute, § 8.31, subd. 3a. I wish to make the following points in support:

1. In *Ly v. Nystrom*, 615 N.W.2d 302 (Minn. 2000), the Minnesota Supreme Court ignored clear legislative intent, abandoned judicial restraint, and looked far beyond the plain and unambiguous language of the private attorney general statute, § 8.31, subd. 3a, to invent a "public benefit" limitation for consumers to bring civil actions for violations of Minnesota's consumer fraud laws.
2. The "public benefit" limitation has proven to be an insurmountable roadblock for individual consumers and family farmers bringing civil actions for violations of Minnesota's Consumer Fraud Act (CFA), Minn. Stat. § 325F.69, which protects consumers from fraud, misrepresentation, and deception in the marketplace. Since the *Ly* decision, in nearly every case that individual consumers or family farmers have brought under the private attorney general statute, alleging violations of the CFA in one-to-one consumer transactions, courts have dismissed their case for lack of a "public benefit."
3. The Supreme Court's invention of the "public benefit" limitation in *Ly* was a solution looking for a problem. For forty years, the private attorney general statute and Consumer Fraud Act allowed Minnesotans to protect themselves from consumer fraud. The laws worked very well. There is no evidence or suggestion that any problems existed with laws prior to *Ly v. Nystrom* (2000).
4. SF1332 simply restores the law to its pre-*Ly* status, when individual consumers were able to redress injuries caused by fraud, misrepresentation and deceptive practices in the purchase of merchandise.

5. The ability of consumers to recover investigative costs and attorney's fees in consumer cases, when they are the prevailing party, is critical for enabling disadvantaged consumers, who might otherwise not be able to afford litigation, particularly when the damages are smaller, to bring civil actions to recover damage. Businesses engaging in fraud should not benefit from preying on poor consumers for small dollar amounts, knowing full well they cannot afford the litigation necessary protect themselves.

I appreciate the opportunity to provide testimony on this important bill and encourage your support.

Sincerely,

HEANEY LAW FIRM, LLC



Mark L. Heaney