

Cody Foster & Co. sues stores over canceled orders

By *Barbara Soderlin* / *World-Herald staff writer*

Valentine, Neb.-based craft wholesaler Cody Foster & Co. is suing Urban Outfitters and its subsidiary Anthropologie, alleging that the retailers violated contracts when they canceled orders in October following allegations that Cody Foster copied the work of an independent artist.

Cody Foster & Co. said Urban Outfitters and several of its subsidiaries and brands have an outstanding balance of more than \$576,000 on 124 purchase orders for ornaments, which had a total value of about \$706,500. The firm wants a jury to force the retailers to pay the balance plus interest.

“These ornaments were uniquely crafted to suit the Defendants' customer demographic,” Cody Foster & Co. said in the suit, filed March 10 in Douglas County District Court.

“Defendants now refuse to pay amounts owed under contract, seek to return the items to Cody Foster at Cody Foster's expense and cancel all pending orders.”

In other words, said Cody Foster & Co.'s attorney, Brian Jorde of Omaha, “We had a deal, and you reneged on your end of the bargain.”

The balance represents significant business for Cody Foster & Co., which told The World-Herald in December 2012 that it has gross sales of about \$3 million a year.

The suit does not address the reason Urban Outfitters stopped doing business with the firm. In October 2013, California commercial artist Lisa Congdon said Cody Foster & Co. used her original designs without permission to create some of its ornaments. The complaint spread via social media, and some retailers announced they would no longer do business with the wholesaler.

“After a thorough investigation, Anthropologie has decided to sever its relationship with Cody Foster & Co, remove any current items from our site and stores and cancel plans to

include the company's products in our holiday assortment,” the retailer said in a statement.

In November, Cody Foster & Co. apologized for harm it had inadvertently caused customers and artists and said it would change its processes to reduce the possibility that its products resemble items sold or designed by others.

Wednesday, Jorde said he could not comment on the artist's allegations. “She and Cody Foster have resolved any differences they had,” he said, and the company is moving on.

“They have a large amount of very loyal and stable customers that have stayed with them. They've had a bump in the road but nothing they can't get over.”

The retailers' attorney could not be reached.

The purchase agreement, attached to the lawsuit, says the retailer has the right to return merchandise and cancel the contract if there's a claim of infringement involving the merchandise.

Jorde said none of the retailers' products had any claim of infringement. He said the social media conversation “scared” them.



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