

IN THE COURT OF COMMON PLEAS
MONTGOMERY COUNTY, OHIO

STATE OF OHIO, *ex rel.*
MCHAEL DEWINE
ATTORNEY GENERAL OF OHIO
30 E. Broad St., 14th Floor
Columbus, Ohio 43215

Plaintiff,

v.

NATIONWIDE RECOVERY GROUP, LLC
2461 Seneca Street
Buffalo, New York 14210

And

MICHAEL P. MCCARTHY
62 Buffum Street
Buffalo, New York 14210

Defendants.

) CASE NO.

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) JUDGE

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COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF,
RESTITUTION AND CIVIL
PENALTIES

JURISDICTION AND VENUE

1. Plaintiff, State of Ohio, by and through Attorney General Michael DeWine, having reasonable cause to believe that violations of Ohio's consumer protection laws have occurred, brings this action in the public interest and on behalf of the State of Ohio under the authority vested in him by the Ohio Consumer Sales Practices Act ("CSPA"), Revised Code ("R.C.") 1345.01 et seq.
2. The actions of Defendants, hereinafter described, have occurred in the State of Ohio, as set forth below, are in violation of the CSPA, R.C. 1345.01 et seq. and the Fair Debt Collection Practices Act ("FDCPA"), 15 U.S.C. 1692 – 1692p.

3. This Court has subject matter jurisdiction over this action pursuant to the CSPA, R.C. 1345.04.
4. This Court has venue to hear this case pursuant to Ohio Civ. R. 3(B)(3), in that some of the transactions complained of herein, and out of which this action arose, occurred in Montgomery County.
5. This Court has personal jurisdiction over each Defendant, pursuant to R.C. 2307.382, as this cause of action arises from the Defendants' business transactions with residents of Ohio.

STATEMENT OF FACTS

6. Defendants engaged in business in Montgomery County and other counties throughout the State of Ohio; however, Defendants are not registered with the Ohio Secretary of State's Office.
7. Defendants are "suppliers" as that term is defined in R.C. 1345.01(C) as Defendants were, at all times relevant herein, engaged in the business of effecting consumer transactions by enforcing or attempting to enforce the payment of debts allegedly owed by consumers, which arose from consumer transactions, for purposes that were primarily personal, family or household within the meaning specified in R.C. 1345.01(A) and (D).
8. Defendants are "debt collectors" as that term is defined in 15 U.S.C. 1692(a)(6) as Defendants have, at all times relevant herein, used an instrumentality of interstate commerce or the mails in a business the principal purpose of which is the collection of any debts, or who regularly collects or attempts to collect, directly or indirectly, debts owed or due or asserted to be owed or due another.

9. Defendants purchase alleged debts and engage in the practice of debt collection services by regularly collecting or attempting to collect, debts that are due or alleged to be due from consumers.
10. Defendants engage in the practice of debt services by regularly collecting, or attempting to collect debts that are due or alleged to be due from consumers to others for whom Defendants provide collections services.
11. Defendant Nationwide Recovery Group, LLC. ("NRG") is a limited liability company that was organized in the State of Delaware in May of 2008. Its principal place of business is located at 2461 Seneca Street, Buffalo, New York 14210.
12. Defendant Michael P. McCarthy ("McCarthy") is an individual and resides at 62 Buffum Street, Buffalo, New York 14210.
13. Defendant McCarthy is the sole owner and managing member of Defendant NRG. He has the authority to and does formulate, approve, reject, direct, or control the policies and procedures for Defendant NRG.
14. Defendants conducted business in Ohio using the business name Nationwide Recovery Group.
15. Defendants also conducted business in Ohio using the business names, Gallagher Mediation and the Law Firm of John McGuire, which appear to be wholly fictitious business names used to mislead consumers.
16. Defendants collected, or attempted to collect debts, by using debt collection methods which are prohibited by the FDCPA, 15 U.S.C. 1692 – 1692p.
17. Defendants attempt to collect on alleged debts by placing telephone calls to alleged consumer debtors without meaningful disclosures of the identities of the callers.

18. Defendants engaged in conduct that was harassing or abusive to consumers in an effort to intimidate consumers into paying debts allegedly owed.
19. Defendants called consumers using technology that blocked, disguised or “spoofed” the originating telephone numbers from which they called by purposefully blocking or transmitting other telephone numbers for display on the call recipients’ caller identification service.
20. Defendants called consumers while spoofing their originating number to display as telephone numbers associated with governmental, judicial or law enforcement agencies to create a false impression for the call recipient.
21. Defendants collected or attempted to collect debts allegedly owed by consumers by falsely posing as associated with governmental, judicial or law enforcement agencies including but not limited to, county sheriff deputies, an investigator from Greene County District Court, or process servers from several Ohio clerk of courts’ offices, including the Montgomery, Cuyahoga and Greene counties clerk of courts’ offices.
22. Defendants collected or attempted to collect debts allegedly owed by consumers by making false or misleading statements, including representations that a civil or criminal action was imminent if consumers failed to pay a debt immediately.
23. Defendants informed consumers that they could or would be arrested or imprisoned for “theft of merchandise” or “theft of services” for failing to pay a debt.
24. Defendants threatened actions against consumers when there was no legal authority or intention to do so, including representations that wage garnishments would be obtained or that debts would be reported to the Internal Revenue Service which would result in “unearned income” tax assessments in amounts three times higher than the original debts.

25. Defendant McCarthy attempted to collect debts from consumers while falsely identifying himself as John McGuire or Jason Gallagher.
26. Defendants attempted to collect debts from consumers while falsely informing consumers that they were mediating between the original merchant and an attorney.
27. Defendants attempted to collect debts from consumers while falsely informing consumers that statutes of limitations or other deadlines were quickly approaching to create false senses of urgency.

PLAINTIFF'S CAUSES OF ACTION:

COUNT I

VIOLATIONS OF THE FAIR DEBT COLLECTION PRACTICES ACT

28. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs One through Twenty-Seven (1-27) of this Complaint.
29. Defendants committed unfair, deceptive, and unconscionable acts or practices in violation of the CSPA, R.C. 1345.02(A) and R.C. 1345.03(A) by engaging in acts or practices that violate the FDCPA, 15 U.S.C. 1692 – 1692p.
30. Such acts or practices have been previously determined by Ohio courts to violate the CSPA, R.C. 1345.01 et seq. Defendants committed said violations after such decisions were available for public inspection pursuant to R.C. 1345.05(A)(3).

COUNT II

THREATENING ACTIONS THAT CANNOT BE TAKEN

31. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs One through Twenty-Seven (1-27) of this Complaint.
32. Defendants committed unfair, deceptive, and unconscionable acts or practices in violation

of the CSPA, R.C. 1345.02(A) and 1345.03(A) by threatening to take actions for nonpayment of alleged debts that could not be legally taken or that the debt collector or creditor did not intend to take.

33. Such acts or practices have been previously determined by Ohio courts to violate the CSPA, R.C. 1345.01 et seq. Defendants committed said violations after such decisions were available for public inspection pursuant to R.C. 1345.05(A)(3).

COUNT III

FAILURE TO DISCLOSE CALLER'S IDENTITY

34. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs One through Twenty-Seven (1-27) of this Complaint.
35. Defendants committed unfair, deceptive, and unconscionable acts or practices in violation of the CSPA, R.C. 1345.02(A) and 1345.03(A) by placing telephone calls to consumers without meaningfully disclosing the identity of the caller.
36. Such acts or practices have been previously determined by Ohio courts to violate the CSPA, R.C. 1345.01 et seq. Defendants committed said violations after such decisions were available for public inspection pursuant to R.C. 1345.05(A)(3).

COUNT IV

BLOCKING OR SPOOFING ORIGINATING TELEPHONE NUMBERS

37. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs One through Twenty-Seven (1-27) of this Complaint.
38. Defendants committed unfair, deceptive, and unconscionable acts or practices in violation of the CSPA, R.C. 1345.02(A) and 1345.03(A) by placing telephone calls to consumers while blocking originating telephone numbers or disseminating false originating

telephone numbers to evade caller identification services used by call recipients for misleading or deceptive purposes.

COUNT V

FALSE AND MISLEADING REPRESENTATIONS

39. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs One through Twenty-Seven (1-27) of this Complaint.
40. Defendants committed unfair, deceptive, and unconscionable acts or practices in violation of the CSPA, R.C. 1345.02(A) and 1345.03(A) by making false, misleading or deceptive representations in connection with the collection of a debt.
41. Defendants committed unfair, deceptive, and unconscionable acts or practices in violation of the CSPA, R.C. 1345.02(A) and 1345.03(A) by representing or implying that nonpayment of debts will result in the arrest or filing of criminal or civil actions when such actions were not lawful or the debt collector or creditor did not intend to take such action.
42. Such acts or practices have been previously determined by Ohio courts to violate the CSPA, R.C. 1345.01 et seq. Defendants committed said violations after such decisions were available for public inspection pursuant to R.C. 1345.05(A)(3).

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays that this Court:

43. **ISSUE A DECLARATORY JUDGMENT** declaring that each act or practice described in Plaintiff's Complaint violates the CSPA and the FDCPA in the manner set forth in this Complaint.

44. ISSUE PERMANENT INJUNCTIVE RELIEF enjoining Defendants, their agents, servants, representatives, salespeople, employees, successors and assigns and all persons acting in concert or participating with them, directly or indirectly, from engaging in the acts or practices of which Plaintiff complains and from violating the CSPA, R.C. 1345.01 et seq. and the FDCPA, 15 U.S.C. 1692 – 1692p.
45. ORDER Defendants liable for reimbursement to all consumers found to have been damaged by the Defendants' unfair, deceptive, and unconscionable acts and practices, including, but not limited to, making restitution to consumers who have paid sums to the Defendants as a result of any of the Defendants' collection practices that are found to violate the CSPA, R.C. 1345.01 et seq. or the FDCPA, 15 U.S.C. 1692 – 1692p.
46. ASSESS, FINE AND IMPOSE upon Defendants, jointly and severally, a civil penalty of Twenty-Five Thousand Dollars (\$25,000.00) for each appropriate violation of the CSPA, described herein, pursuant to R.C. 1345.07(D).
47. ORDER, as a means of insuring compliance with this Court's Order and with the consumer protection laws of Ohio, Defendants to maintain in their possession and control for a period of five (5) years all business records relating to Defendants' debt collection activities in Ohio and to permit the Ohio Attorney General or his representative, upon reasonable twenty-four (24) hour notice, to inspect and/or copy any and all records.
48. GRANT the Ohio Attorney General his costs in bringing this action.
49. ORDER Defendants to pay all court costs.
50. GRANT such other relief as the Court deems to be just, equitable and appropriate.

Respectfully submitted,

MICHAEL DEWINE
Ohio Attorney General



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