

**IN THE COURT OF COMMON PLEAS FRANKLIN COUNTY, OHIO**

STATE OF OHIO, ex rel.	)	CASE NO.
ATTORNEY GENERAL	)	
DAVE YOST	)	
30 East Broad St., 14th Floor	)	JUDGE
Columbus, Ohio 43215	)	
	)	
Plaintiff,	)	<b><u>COMPLAINT FOR</u></b>
	)	<b><u>DECLARATORY JUDGMENT,</u></b>
v.	)	<b><u>INJUNCTIVE RELIEF,</u></b>
	)	<b><u>RESTITUTION, CIVIL</u></b>
MTK AUTO DETAILING	)	<b><u>PENALTIES, AND OTHER</u></b>
dba MTK AUTO LOFT LLC	)	<b><u>APPROPRIATE RELIEF</u></b>
c/o VIRGIL MONTEZ MCDANIEL	)	
Statutory Agent	)	
807 Parsons Ave.	)	
Columbus, Ohio 43206	)	
	)	
and	)	
	)	
VIRGIL MONTEZ MCDANIEL, Individually)	)	
2485 Floribunda Dr.	)	
Columbus, Ohio 43209	)	
	)	
Defendants.	)	

**JURISDICTION**

1. Plaintiff, State of Ohio, by and through counsel, the Attorney General of Ohio, Dave Yost, 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"), R.C. 1345.01 *et seq.*, and the Certificate of Motor Vehicle Title Act, R.C. 4505.01 *et seq.*
2. The actions of Defendants MTK Auto Detailing dba MTK Auto Loft LLC ("MTK") and Virgil Montez McDaniel ("McDaniel") (collectively "Defendants"), hereinafter described, have occurred in the State of Ohio, Franklin County and other counties, and, as set forth below, are in violation of the CSPA, R.C. 1345.01 *et seq.*, and the Certificate of Motor

Vehicle Title Act, R.C. 4505.01 *et seq.*

3. Defendants, as described below, are each a “supplier” 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 or soliciting “consumer transactions” as that term is defined in R.C. 1345.01(A).
4. Defendants, as described below, engaged in “consumer transactions” by offering for sale, selling or financing the purchase of used motor vehicles to individuals for purposes that were primarily personal, family or household within the meaning specified in R.C. 1345.01(A).
5. The actions of Defendants, hereinafter described, have occurred in the State of Ohio and Franklin County.
6. Jurisdiction over the subject matter of this action lies with this Court pursuant to R.C. 1345.04 of the CSPA.
7. This Court has venue to hear this case pursuant to Ohio Civ. R. 3(C)(1)-(3), in that Defendants operated their business from, reside in, and engaged in some of the transactions complained of herein in Franklin County, Ohio.

#### **STATEMENT OF FACTS**

8. Defendant MTK is a domestic limited liability company conducting business in Franklin County and other counties in the State of Ohio with its principal place of business located at 807 Parsons Ave., Columbus, Ohio 43206.
9. Defendant MTK at all relevant times was a licensed used motor vehicle dealer, operating under a permit issued by the Ohio Bureau of Motor Vehicles, permit number UD022681. The permit is active.

10. On information and belief, Defendant McDaniel is an individual whose address is 2485 Floribunda Dr., Columbus, Ohio, Franklin County, Ohio 43209.
11. On information and belief, Defendant McDaniel is the principal owner of MTK and dominated, controlled and directed the business activities and sales conduct of MTK, exercised the authority to establish, implement or alter the policies of MTK, and committed, allowed, directed, ratified or otherwise caused the following unlawful acts to occur.
12. Defendants were at all times relevant to this action engaged in the business of soliciting, promoting, purchasing, selling, financing and collecting the proceeds of the sales of used motor vehicles to consumers residing in Franklin and other Ohio counties.
13. Defendants, operating under the name MTK Auto Loft LLC, solicited individual consumers to enter into consumer transactions, specifically for the sale of used motor vehicles.
14. Defendants have continued soliciting Ohio consumers for the sale of motor vehicles.
15. The Defendants failed to file applications for certificates of title within thirty days after the assignment or delivery of motor vehicles.
16. The Defendants failed to obtain certificates of title on or before the fortieth day after the sale of motor vehicles.
17. As a result of the Defendants' conduct, a retail purchaser was unable to obtain a certificate of title to her used motor vehicle, and filed a claim with the Ohio Attorney General pursuant to Ohio's Title Defect Recision (TDR) statute, R. C. 4505.181.
18. The TDR claim totaled Four Thousand Four Hundred Thirty-Four Dollars and Fifty Cents

(\$4,434.50) and was paid from the TDR Fund, administered by the Ohio Attorney General's Office, after the Defendants failed to obtain a certificate of title on or before the Fortieth (40th) day after the sale of the motor vehicle to the retail purchaser.

19. After payment was made from the TDR Fund, the Defendants failed to maintain a surety bond in an amount not less than \$25,000.00 after the Attorney General has paid a retail purchaser of the dealer from the TDR Fund.

**VIOLATIONS OF THE CONSUMER SALES PRACTICES ACT**

20. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs One through Nineteen (1-19) of this Complaint.
21. The Defendants engaged in unfair and deceptive acts and practices in violation of R.C. 1345.02(A) by failing to file applications for certificates of title within thirty days after the assignment or delivery of motor vehicles as required by R.C. 4505.06(A)(5)(b).
22. The Defendants engaged in unfair and deceptive acts and practices in violation of R.C. 1345.02(A), by selling motor vehicles to consumers, in the ordinary course of business, and then failing to obtain certificates of title on or before the fortieth day after the sale of the motor vehicles as required by R.C. 4505.181(B)(1).
23. The Defendants engaged in unfair and deceptive acts and practices in violation of R.C. 1345.02(A) by failing to post a surety bond after the Attorney General paid a retail purchaser of the dealer from the TDR Fund due to the Defendants' failure to deliver title to the purchaser, as required by R.C. 4505.181.
24. Such acts or practices have been previously determined by Ohio courts to violate the CSPA, R.C. 1345.01 *et seq.* The 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:

- A. ISSUE A DECLARATORY JUDGMENT declaring that each act or practice described in Plaintiff's Complaint violates the CSPA, R.C. 1345.01 *et seq.*, and the Certificate of Motor Vehicle Title Act, R.C. 4505.01 *et seq.* in the manner set forth in this Complaint.
- B. ISSUE PERMANENT INJUNCTIVE RELIEF enjoining Defendants and any officers, agents, representatives, salespeople, employees, successors and assigns and all persons acting in concert or participating with them, directly or indirectly, from engaging in the acts and practices of which Plaintiff complains and from further violating the CSPA, R.C. 1345.01 *et seq.*, and the Certificate of Motor Vehicle Title Act, R.C. 4505.01 *et seq.*
- C. ORDER Defendants liable for reimbursement to all consumers found to have been damaged by the Defendants' unfair and deceptive acts and practices, and motor vehicle title violations.
- D. ORDER Defendants liable for payment to the TDR for funds expended to resolve title defects caused by Defendants' motor vehicle title violations.
- E. ASSESS, FINE, AND IMPOSE upon Defendants a civil penalty of \$25,000.00 for each of the appropriate unfair and deceptive acts alleged in the Complaint, pursuant to R.C. 1345.07(D).
- F. 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 the Defendants' solicitation and sale of

used motor vehicles 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.

- G. ORDER that the Defendants be enjoined from engaging in consumer transactions as a Supplier in the State of Ohio until they have satisfied all restitution, civil penalties, court costs, repaid the TDR Fund and have posted the required R.C. 4505.181 surety.
- H. ORDER that the Defendants be prohibited from maintaining, renewing or applying for an auto dealer or salesperson license under Chapter 4517 of the Revised Code.
- I. GRANT Plaintiff its costs in bringing this action, including, but not limited to, the costs of collecting on any judgment awarded.
- J. ORDER the Defendants to pay all court costs.
- K. GRANT such other relief as the Court deems to be just, equitable and appropriate.

Dave Yost  
Ohio Attorney General

/s/ Rosemary E. Rupert

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