



NAILAH K. BYRD
CUYAHOGA COUNTY CLERK OF COURTS
1200 Ontario Street
Cleveland, Ohio 44113

Court of Common Pleas

COMPLAINT Electronically Filed:
April 26, 2016 14:26

By: THOMAS D. MCGUIRE 0007121

Confirmation Nbr. 735743

STATE OF OHIO, EX REL. MICHAEL DEWINE

CV 16 861747

VS.

AUTOS DIRECT ONLINE, ET AL.

Judge:

CAROLYN B. FRIEDLAND

Pages Filed: 6

IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO

STATE OF OHIO, <i>ex rel.</i>	)	
MICHAEL DEWINE	)	
ATTORNEY GENERAL OF OHIO	)	CASE NO: CV 16 861747
615 W. Superior Ave 11 th Floor	)	
Cleveland, Ohio 44113-1899	)	
	)	
Plaintiff,	)	JUDGE: Carolyn B. Friedland
	)	
v.	)	
	)	
AUTOS DIRECT ONLINE	)	<u>PLAINTIFF'S FIRST AMENDED</u>
DANNY ANDRICH, STATUTORY AGENT	)	<u>COMPLAINT, REQUEST FOR</u>
19303 LORAIN ROAD	)	<u>DECLARATORY AND INJUNCTIVE</u>
FAIRVIEW PARK, OHIO 44126	)	<u>RELIEF, DAMAGES AND CIVIL</u>
	)	<u>PENALTIES</u>
and	)	
	)	
SHAWN R. PAYNE	)	
114 SANDSTONE RIDGE WAY	)	
BEREA, OHIO 44017	)	
	)	
and	)	
	)	
VINCENT HUGO	)	
29236 GRAYSTONE DR	)	
WESTLAKE, OHIO 44145	)	
	)	
Defendants.	)	
	)	

Now comes Plaintiff, State of Ohio, by and through the Attorney General of Ohio,
Michael DeWine, and hereby amends its Complaint as a matter of course pursuant to Rule 15(A)
of the Ohio Rules of Civil Procedure.

JURISDICTION AND VENUE

1. Plaintiff, State of Ohio, by and through its counsel, the Attorney General of Ohio, 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 Consumer Sales Practices Act, R.C. 1345.01 et seq.
2. The actions of Defendants Autos Direct Online, Shawn Payne and Vincent Hugo occurred in the State of Ohio and Cuyahoga County and violate the Consumer Sales Practices Act, R.C. 1345.01 et seq. and the Certificate of Motor Title Vehicle Law, R.C. 4505.181.
3. This Court has jurisdiction over the subject matter of this action pursuant to R.C. 1345.04 of the Consumer Sales Practices Act.
4. This Court has venue to hear this case pursuant to Civ. R. 3(B)(1)-(3), in that Defendants reside in, have their principal place of business in, and some of the transactions complained of herein, and out of which this action arises, occurred in Cuyahoga County, Ohio.

DEFENDANTS

5. Defendant Autos Direct Online is an Ohio corporation that did business at 4371 Pearl Road, Cleveland, Ohio.
6. Defendants were "suppliers" as that term is defined in R.C. 1345.01(C) as Defendants, at all times relevant herein, engaged in the business of effecting "consumer transactions" by soliciting for sale and selling used motor vehicles to "individuals" from Cuyahoga County, other counties in the State of Ohio, and in other states for purposes that were

primarily personal, family or household within the meaning specified in R.C. 1345.01(A) and (D).

7. Defendants Payne and Hugo were motor vehicle dealers as that term is defined in R.C. 4517.01(L).
8. Defendants Payne and Hugo had an ownership interest in Defendant Autos Direct Online and operated Autos Direct Online and dominated, controlled and directed the business activities and sales conduct of Autos Direct Online, and exercised the authority to establish, implement or alter the policies of Autos Direct Online, and committed, allowed, directed, ratified or otherwise caused the following unlawful acts to occur.

STATEMENT OF FACTS

9. Defendants were engaged in the business of soliciting, promoting, leasing, purchasing, and/or selling motor vehicles.
10. Defendant Autos Direct Online at all relevant times hereto was licensed by the Ohio Bureau of Motor Vehicles under dealer license number UD017432.
11. At all relevant times hereto, the Defendants were displaying or selling used motor vehicles at the Autos Direct Online location.
12. Defendants failed to file applications for certificates of title within Thirty (30) days after the assignment or delivery of motor vehicles.
13. Defendants failed to obtain certificates of title on or before the Fortieth (40th) day after the sale of motor vehicles.
14. Defendants, in the ordinary course of business, have sold or transferred used motor vehicles to consumers without delivering to the purchasers or transferees, certificates of title assigned to such purchasers or transferees.

15. Defendants entered into numerous consumer transactions for the sale, lease or transfer of automobiles, and failed to transfer titles as required by Ohio law. This failure resulted in the filing of claims for reimbursement pursuant to the TDR Fund.
16. Consumers received reimbursement from the TDR Fund due to Defendants' failure to provide titles to used motor vehicles they had sold to those consumers.

CAUSE OF ACTION

VIOLATIONS OF THE CERTIFICATE OF MOTOR VEHICLE TITLE ACT

17. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs One through Sixteen (1-16) of this Complaint.
18. The Defendants engaged in unfair and deceptive acts and practices in violation of R.C. 1345.02 by failing to file applications for certificates of title within Thirty (30) days after the assignment of delivery of motor vehicles as required by R.C. 4505.06(A)(5)(b).
19. The Defendants committed unfair and deceptive acts or practices in violation of the Consumer Sales Practices Act, 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 (40th) day of sale of the motor vehicles as required by R.C. 4505.181(B)(1).
20. Such acts or practices have been previously determined by Ohio courts to violate the Consumer Sales Practices Act, 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 requests that this Court:

- 1) ISSUE a permanent injunction, pursuant to R.C. 1345.07(A)(2), enjoining Defendants, their agents, servants, representatives, salesmen, employees, successors or assigns, and all persons acting in concert and participation with them, directly or indirectly, from engaging in the acts and practices of which Plaintiff complains.
- 2) ISSUE a declaratory judgment, pursuant to R.C. 1345.07(A)(1), declaring that each and every act or practice complained of herein violates the Consumer Sales Practices Act in the manner set forth in this Complaint.
- 3) ORDER the Defendants, pursuant to R.C. 4505.181(D), R. C. 1345.07 and R.C. 1345.52, to jointly and severally reimburse the TDR Fund all monies paid to consumers and deficiencies in the fund caused by the Defendants' violation of R. C. 4505.181.
- 4) ASSESS, FINE and IMPOSE upon each Defendant, pursuant to R.C. 1345.07, a civil penalty of Twenty Five Thousand Dollars (\$25,000.00) for each separate and appropriate violation described herein.
- 5) ENJOIN Defendants from engaging as a supplier in any consumer transaction in the State of Ohio until such time as they have satisfied all monetary obligations due hereunder.
- 6) GRANT Plaintiff all costs incurred in bringing this action.
- 7) ORDER Defendants to pay all court costs.
- 7) GRANT such other relief as the Court deems to be just, equitable, and appropriate.

Respectfully submitted,

MICHAEL DEWINE
Attorney General

A handwritten signature in cursive script, reading "Thomas D. McGuire", written over a horizontal line.

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