

IN THE COURT OF COMMON PLEAS
LICKING COUNTY, OHIO

LICKING COUNTY
COMMON PLEAS COURT

2013 SEP -4 A 9:55

STATE OF OHIO, ex rel.
MICHAEL DEWINE
Attorney General of Ohio
30 East Broad St., 14th Floor
Columbus, Ohio 43215

Plaintiff,

v.

CLARK MOTOR COMPANY

c/o Statutory Agent
Stephen E. Schaller
32 North Park Place
Newark, Ohio 43055

and

PHILLIP C. CLARK, JR.
189 Hillandale Drive
Newark, Ohio 43055

and

DAVID CLARK
1362 Twin Pines Trail
Newark, Ohio 43055

and

CHRISTOPHER CLARK
1015 Hillside Drive
Newark, Ohio 43055

Defendants.

CASE NO.

13 CV 0890 WDB

JUDGE

FILED
GARY R WALTERS
CLERK

COMPLAINT FOR
DECLARATORY JUDGMENT,
INJUNCTIVE RELIEF,
CIVIL PENALTIES, CONSUMER
DAMAGES, AND OTHER
APPROPRIATE RELIEF

JURISDICTION

1. Plaintiff, State of Ohio, by and through the Attorney General of Ohio, Michael DeWine, having reasonable cause to believe that violations of Ohio's consumer 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 R.C. 1345.07.

2. The actions of Defendants, as described below, have occurred in the State of Ohio, in Licking County and, as set forth below, are in violation of the 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.
3. Jurisdiction over the subject matter of this action lies with this Court pursuant to R.C. 1345.04 of the CSPA.
4. This Court has venue to hear this case pursuant to Ohio Civ. R. 3(B)(1)-(3) in that Licking County, Ohio is the county in which Defendants Phillip C. Clark, David Clark, and Christopher Clark reside, where Defendant Clark Motor Company has its principal place of business, and where all Defendants conducted some of the transactions complained of herein.

DEFENDANTS

5. Defendant Clark Motor Company is an Ohio corporation with its principal place of business located at 1070 Hebron Road, Heath, Ohio 43056.
6. Defendant Phillip C. Clark, Jr. is a natural person who, upon information and belief, resides at 189 Hillandale Drive, Newark, Ohio 43055.
7. Defendant Phillip C. Clark, Jr. did business as "Clark Motor Company" and "Clark Motor Company Limited Partnership", and was one of three general partners of Clark Motor Company Limited Partnership.

8. Defendant Phillip C. Clark is or was the President of Clark Motor Company and has dominated, controlled, and directed the business activities and sales conduct of Clark Motor Company, causing, personally participating in, or ratifying the acts and practices of Clark Motor Company, as described in the Complaint
9. Defendant David Clark is a natural person who, upon information and belief, resides at 1362 Twin Pines Trail, Newark, Ohio 43055.
10. Defendant David Clark did business as "Clark Motor Company" and "Clark Motor Company Limited Partnership", and was one of three general partners of Clark Motor Company Limited Partnership.
11. Defendant David Clark is or was the Treasurer of Clark Motor Company and has dominated, controlled, and directed the business activities and sales conduct of Clark Motor Company, causing, personally participating in, or ratifying the acts and practices of Clark Motor Company, as described in the Complaint
12. Defendant Christopher Clark is a natural person who, upon information and belief, resides at 1015 Hillside Drive, Newark, Ohio 43055.
13. Defendant Christopher Clark did business as "Clark Motor Company" and "Clark Motor Company Limited Partnership", and was one of three general partners of Clark Motor Company Limited Partnership.
14. Defendant Christopher Clark is or was the Vice President of Clark Motor Company and has dominated, controlled, and directed the business activities and sales conduct of Clark Motor Company, causing, personally participating in, or ratifying the acts and practices of Clark Motor Company, as described in the Complaint

15. 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 from their location in Heath to consumers residing in Licking and other Ohio counties.
16. Defendants are “supplier[s]” 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 by offering for sale and selling used motor vehicles to individuals for purposes that were primarily personal, family, or household within the meaning specified in R.C. 1345.01(A) and (D).

STATEMENT OF FACTS

17. Defendants, operating under the name Clark Motor Company, Clark Motor Company Limited Partnership, and Clark Motor Company, Ltd., solicited individual consumers to enter into consumer transactions, specifically for the sale of used motor vehicles.
18. At all relevant times hereto, Defendant Clark Motor Company held license #UD011499 issued by the State of Ohio under R.C. 4517.01 et seq., allowing it to engage in the business of displaying or selling at retail or wholesale used motor vehicles. That license has since been cancelled.
19. At all relevant times hereto, the Defendants were displaying or selling used motor vehicles at the Clark Motor Company location.
20. The Defendants failed to file applications for certificate of title within Thirty (30) days after the assignment or delivery of a motor vehicle.
21. The Defendants failed to obtain certificates of title on or before the Fortieth (40th) day

after the sale of motor vehicles.

22. Title Defect Recision consumer claims totaling Ninety-Four Thousand Three Hundred Forty-Five Dollars (\$94,345.00) were paid from the Title Defect Rescission Fund, administered by the Ohio Attorney General's Office, after the Defendants failed to obtain certificates of title on or before the Fortieth (40th) day after the sale of the motor vehicles.

CAUSE OF ACTION

VIOLATIONS OF THE CERTIFICATE OF MOTOR VEHICLE TITLE ACT

23. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs One through Twenty-Two (1-22) of this Complaint.
24. The Defendants engaged in unfair or deceptive acts or practices in violation of R.C. 1345.02 of the CSPA by failing to file applications for certificates of title within Thirty (30) days after the assignment or delivery of motor vehicles as required by R.C. 4505.06(A)(5)(b).
25. The Defendants engaged in unfair or deceptive acts or practices in violation of R.C. 1345.02(A) of the CSPA 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).
26. 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 requests that this Court grant the following relief:

- A. ISSUE a permanent injunction enjoining Defendants Clark Motor Company, Phillip C. Clark, Jr., David Clark, and Christopher Clark, doing business under those or any other names, their agents, representatives, salesmen, employees, successors, or assigns, and all persons acting in concert and participation with them, directly or indirectly, from committing any unfair, deceptive, or unconscionable act or practice that violates the CSPA, R.C. 1345.01 et seq., and the Certificate of Motor Vehicle Title Act, R.C. 4505.01 et seq.
- B. DECLARE that each act or practice complained of herein 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.
- C. ORDER Defendants jointly and severally 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 jointly and severally liable for reimbursement to the Title Defect Recision Fund for funds expended to resolve title defects caused by Defendants motor vehicle title violations.
- E. ASSESS, FINE, AND IMPOSE upon Defendants, jointly and severally, a civil penalty of Twenty-Five Thousand Dollars (\$25,000.00) for each of the appropriate unfair or deceptive acts alleged in the Complaint, pursuant to R.C. 1345.07(D).

- F. ASSESS, FINE, AND IMPOSE upon Defendants, jointly and severally, an additional civil penalty of not more than Two Hundred Dollars (\$200.00) for each violation of the Certificate of Motor Vehicle Title Act, pursuant to R.C. 4505.99.
- G. ISSUE an injunction prohibiting Defendants from engaging in business as suppliers in any consumer transaction in the State of Ohio until such time as they have satisfied all monetary obligations ordered by this Court, and any other Court in Ohio, in connection with a consumer transaction.
- H. GRANT the Ohio Attorney General his costs in bringing this action.
- I. ORDER Defendants to pay all court costs.
- J. GRANT such other relief as the Court deems to be just, equitable, and appropriate.

Respectfully submitted,

MICHAEL DEWINE
Ohio Attorney General

A handwritten signature in black ink, appearing to read "Tracy Morrison Dickens", is written over the printed name and title of the signatory.

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