

IN THE CIRCUIT COURT OF THE FOURTH JUDICIAL CIRCUIT
IN AND FOR DUVAL COUNTY, FLORIDA

OFFICE OF THE ATTORNEY GENERAL,
STATE OF FLORIDA, DEPARTMENT OF
LEGAL AFFAIRS,

Plaintiff,

v.

CARLSON ENTERPRISES, LLC, a Florida
Limited Liability Company; and ADOLPH
W. CARLSON, individually and as manager
of Carlson Enterprises, LLC,

Defendants.

Case No.:

Division:

**COMPLAINT FOR INJUNCTIVE RELIEF, RESTITUTION, CIVIL
PENALTIES, AND OTHER STATUTORY AND EQUITABLE RELIEF**

Plaintiff, Office of the Attorney General, State of Florida, Department of
Legal Affairs (the “Attorney General”), sues Defendants CARLSON
ENTERPRISES, LLC, a Florida Limited Liability Company; and ADOLPH W.
CARLSON, individually and as manager of Carlson Enterprises, LLC (collectively
referred to herein as “Defendants”), and alleges:

Jurisdiction and Venue

1. This is an action pursuant to the Florida Deceptive and Unfair Trade
Practices Act (“FDUTPA”), Chapter 501, Part II, Florida Statutes (2017), to obtain
temporary, preliminary and permanent injunctive relief, restitution, disgorgement
of ill-gotten monies, civil penalties, as well as other available statutory and
equitable relief, for Defendants’ acts or practices in violation of FDUTPA.

2. The Court has subject matter jurisdiction pursuant to section 26.012, Florida Statutes, and FDUTPA.

3. Pursuant to section 47.011, Florida Statutes, venue is proper in the Circuit Court of the Fourth Judicial Circuit, in and for Duval County, Florida, as the individual Defendant resides in Duval County, some of the statutory violations occurred in Duval County, and the principal place of business for the limited liability company Defendant is also in Duval County.

4. At all times material to this Complaint, the Defendants solicited consumers as defined in section 501.203(7), Florida Statutes.

5. At all times material to this Complaint, the Defendants engaged in trade or commerce as defined in section 501.203(8), Florida Statutes.

6. At all times material to this Complaint, the Defendants provided goods or services as defined in section 501.203(8), Florida Statutes.

7. Pursuant to sections 95.11(3) and 501.207(5), Florida Statutes, all of the acts, practices, occurrences, and transactions upon which this Complaint is based occurred within four (4) years of the filing of the Complaint.

The Parties

8. The Attorney General is an “enforcing authority” under FDUTPA and is authorized to bring this action and seek injunctive and other statutory relief pursuant to sections 501.207, 501.2075, and 501.2077, Florida Statutes.

9. Pursuant to section 501.203(2), Florida Statutes, the alleged statutory violations occurred in or affected residents of more than one judicial circuit in the State of Florida.

10. Pursuant to section 501.207(2), Florida Statutes, the Attorney General conducted an investigation of the alleged matters, and Florida Attorney General Pamela Jo Bondi determined that this enforcement action against the Defendants serves the public interest.

11. Defendant Carlson Enterprises, LLC, (“CARLSON”) is a Florida Limited Liability Company doing business in Florida and is registered with the Florida Department of State as an active entity with a principal address of 5028 Richard Lane W., Suite B, Jacksonville, Florida 32216.

12. Defendant Adolph W. Carlson (“AWC”) resides at 4384 Seabreeze Dr., Jacksonville Beach, Florida 32250. In connection with the matters alleged herein, AWC transacts or has transacted business in Florida.

13. AWC is a Manager and Owner of CARLSON. At all times material to this Complaint, acting alone or in concert with others, AWC has formulated, directed, controlled, had the authority to control, or participated in the various acts and practices of CARLSON set forth in this Complaint.

The Defendants' Business Practices

14. Defendants have engaged in a course of conduct to solicit, offer to provide, sell, provide, or arrange for others to provide construction services, including but not limited to roof repairs and roof replacements to Florida consumers.

15. CARLSON solicits consumers to sign a contract for the roofing work.

16. CARLSON collects monies from the consumer directly and/or by collecting funds from the consumer's insurance carrier prior to the work being commenced.

17. CARLSON provides consumers with unrealistic start dates for the roofing projects, and CARLSON does not start the roofing work as promised.

18. Upon information and belief, at all times material to this Complaint, the roofing work that CARLSON was to perform required a permit or permits under the applicable codes and ordinances.

19. In all instances material to this Complaint, CARSLON did not apply for or obtain the necessary permits for the roofing work.

20. In all instances material to this Complaint, CARLSON did not complete the roofing work.

21. Despite failing to perform the roofing work on past jobs, Defendants are soliciting new work from different consumers.

22. Defendants also include a sizable penalty provision (which CARLSON terms a “liquidated damages” provision) in their contracts with consumers, as follows:

If Customer cancels this Agreement after midnight (E.S.T.) on the 3rd business day following execution of this Agreement, Customer agrees to pay CELLC [CARLSON] liquidated damages in the amount of thirty percent (30%) of the insurance proceeds or \$3,000.00, whichever is greater, and CELLC agrees to accept such sum as liquidated damages.

23. Upon information and belief, this penalty provision inhibits consumers from hiring other roofing contractors to perform the needed roofing work.

24. As a result of Defendants’ acts and practices, consumers suffer substantial economic injury, including, *inter alia*: a) the consumer’s payment of the consumer’s insurance deductible for roofing work ultimately not performed; b) funds paid by consumers to Defendants for roofing work ultimately not performed; c) the loss of the consumers’ insurance funds taken by the Defendants without performing the roofing work; and d) additional expenses incurred by the consumers to procure a new contractor to perform the roofing work that Defendants failed to perform.

25. As set forth in this Complaint, Florida consumers have been victims of Defendants’ unlawful business practices in violation of section 501.2075, Florida Statutes.

26. Senior citizens and other such persons enumerated in section 501.2077, Florida Statutes, have been victims of Defendants' unlawful business practices.

27. The Defendants' violations of FDUTPA have caused consumers to suffer past and ongoing substantial injury resulting in the unjust enrichment of the Defendants. Absent injunctive relief by the Court, the Defendants are likely to continue to injure consumers, reap unjust enrichment, and harm the public interest.

28. Pursuant to sections 501.207(1)(b) and (3), Florida Statutes, this Court is empowered to grant injunctive relief and such other relief as this Court may deem appropriate to halt and redress violations of any provision of law enforced by the Attorney General. The Court, in the exercise of its equitable jurisdiction, may award ancillary relief, including: rescission or reformation of contracts, appointment of a receiver, restitution, the refund of monies paid, the sequestration or freezing of assets, and the disgorgement of ill-gotten monies, to prevent and remedy any violation of FDUTPA enforced by the Attorney General.

29. The Attorney General has incurred reasonable attorney's fees and costs in its investigation and in maintaining this action against the Defendants and, pursuant to sections 501.2075 and 501.2105, Florida Statutes, the Attorney General is entitled to an award of same.

Count I:
Violation of FDUTPA
(Defendants' Unfair Business Acts or Practices)

30. The Attorney General incorporates and adopts by reference paragraphs 1 through 29 as if set forth fully herein.

31. FDUTPA, specifically section 501.204(1), Florida Statutes, makes unlawful “[u]nfair methods of competition, unconscionable acts or practices, and unfair or deceptive acts or practices in the conduct of any trade or commerce.”

32. As set forth in paragraphs 11 through 27 herein, Defendants engaged in unfair acts or practices in the conduct of trade or commerce in violation of section 501.204(1), Florida Statutes, by:

- a. soliciting roofing jobs from consumers when Defendants were not going to perform the roofing work;
- b. taking payments from consumers for the roofing jobs when Defendants were not going to perform the roofing work;
- c. taking consumers’ insurance proceeds for the roofing jobs when Defendants were not going to perform the roofing work; and
- d. failing to perform the roofing work.

33. In truth and in fact, Defendants failed to inform the consumers that Defendants were not going to perform the roofing work. In addition, Defendants failed to perform the roofing work.

34. Consumers have suffered, and continue to suffer substantial economic injury as a result of Defendants' continuing violations of FDUTPA.

35. The injuries suffered by consumers outweigh the benefits, if any, provided to the consumers by the Defendants' actions.

36. The injuries suffered by the consumers due to the Defendants' unfair acts or practices are not injuries that the consumers, themselves, could have reasonably avoided.

37. Defendants willfully engaged in the acts and practices when they either knew or should have known that such acts and practices were unfair or deceptive or otherwise prohibited by law.

38. Absent injunctive relief by this Court, Defendants are likely to continue to injure consumers, reap unjust enrichment, and harm the public interest.

Count II:
Violation of FDUTPA
(Defendants' Deceptive Business Acts or Practices)

39. The Attorney General incorporates and adopts by reference paragraphs 1 through 29 as if set forth fully herein.

40. FDUTPA, specifically section 501.204(1), Florida Statutes, makes unlawful "[u]nfair methods of competition, unconscionable acts or practices, and unfair or deceptive acts or practices in the conduct of any trade or commerce."

41. As set forth in paragraphs 11 through 27 herein, Defendants engaged in deceptive acts or practices in the conduct of trade or commerce in violation of section 501.204(1), Florida Statutes, by:

- a. soliciting roofing jobs from consumers by, in part, representing that Defendants would perform the roofing work;
- b. continuing to represent to consumers that Defendants would perform the roofing work when, in fact, Defendants did not perform the roofing work;
- c. taking payments from consumers for the roofing jobs when Defendants were not going to perform the roofing work; and
- d. taking consumers' insurance proceeds for the roofing jobs when Defendants were not going to perform the roofing work.

42. The Defendants' actions were likely to deceive consumers, who acted reasonably.

43. Because of the Defendants' actions, and to the consumers' detriment, the consumers have suffered, and continue to suffer substantial economic injury as a result of Defendants' continuing violations of FDUTPA.

44. Defendants willfully engaged in the acts and practices when they either knew or should have known that such acts and practices were unfair or deceptive or otherwise prohibited by law.

45. Absent injunctive relief by this Court, Defendants are likely to continue to injure consumers, reap unjust enrichment, and harm the public interest.

Prayer for Relief

WHEREFORE, pursuant to Chapter 501, Part II, Florida Statutes, and the Court's own powers to grant legal or equitable relief, the Attorney General respectfully requests that the Court:

- i. Enter a judgment in favor of the Attorney General and against Defendants, jointly and severally, on all Counts;
- ii. Enter an Order: a) preventing the enforcement by Defendants of any liquidated damage or penalty provision in favor of CARLSON from any contract to provide roof repair or replacement; and b) preventing the enforcement by Defendants of any provision operating as an assignment of insurance benefits provision allowing Defendants to claim the consumers' insurance proceeds;
- iii. Enter an Order requiring the Defendants to return all monies received by Defendants on roofing projects where the Defendants: a) failed to complete the roofing project in full; or b) failed to begin the roofing project within 120 days of accepting monies from the consumer or the consumers' insurance carrier;

iv. Award such relief as the Court finds necessary to redress injury to consumers resulting from Defendants' violations of FDUTPA, including but not limited to, rescission or reformation of contracts, the refund of monies paid, restitution, and disgorgement of all monies received by Defendants (either directly from the consumers or from the consumers' insurance companies) to perform roofing work where Defendants failed to perform the roofing work in full;

v. Enter an order against the Defendants, jointly and severally assessing civil penalties in the amount of \$10,000 for each act or practice found to be in violation of section 501.2075, Florida Statutes;

vi. Enter an order against the Defendants, jointly and severally assessing civil penalties in the amount of \$15,000 for each act or practice found to be in violation of section 501.2077, Florida Statutes;

vii. Enter an order awarding the Attorney General its reasonable attorney's fees and costs of bringing and maintaining this action; and

viii. Enter an order granting such other relief as the Court deems just and proper, including, but not limited to, all other relief permissible under section 501.207(3), Florida Statutes.

Dated: April 16, 2018

Respectfully submitted,

PAMELA JO BONDI

Attorney General of the State of Florida

/s/ Robert Edelman

Robert Edelman, Esq.

Assistant Attorney General

Florida Bar No. 48589

1300 Riverplace Blvd., Suite 405

Jacksonville, FL 32207

Tel.: (904) 348-2720

Fax: (904) 858-6918

Service e-mail: oag.ec.jax@myfloridalegal.com

Corres. email: robert.edelman@myfloridalegal.com