

IN THE CIRCUIT COURT OF GARLAND COUNTY, ARKANSAS

DIVISION

STATE OF ARKANSAS, *ex rel.*
LESLIE RUTLEDGE, ATTORNEY GENERAL

PLAINTIFF

v.

CASE NO. 60CV-20-

PAUL M. VUJICIC d/b/a CLASSIC 24
HR. TOWING & RECOVERY

DEFENDANT

COMPLAINT

The State of Arkansas, *ex rel.* Leslie Rutledge, Attorney General (“the State”), for its Complaint against Paul M. Vujicic d/b/a Classic 24 Hr. Towing & Recovery (“Defendant”), states:

I. INTRODUCTION

1. This is a consumer protection action brought to redress and restrain violations of the Arkansas Deceptive Trade Practices Act, Ark. Code Ann. §§ 4-88-101 through 115 (“ADTPA”).

2. Paul Vujicic advertises and operates Classic 24 Hr. Towing & Recovery—a business that has never been issued the licenses and permits required by law to perform this service. Defendant has been cited twice by the Towing & Recovery Board and ordered to cease and desist operation, yet continues to advertise, operate, and charge consumers for services he cannot lawfully provide.

The State seeks an injunction, an order imposing civil penalties, and other relief against Defendant.

II. PARTIES

3. Plaintiff is the State of Arkansas, *ex rel.* Leslie Rutledge, Attorney General. Attorney General Rutledge is the chief legal officer of the State. Pursuant to Ark. Code Ann. §§ 4-88-104 and 4-88-113, the State may seek civil enforcement of the ADTPA.

4. Defendant Paul Vujicic is the owner of Classic 24 Hr. Towing & Recovery and a resident of Garland County who maintains a residence and business at 334 Mason, Hot Springs, Arkansas.

III. JURISDICTION

5. This Court has jurisdiction over this matter pursuant to Ark. Code Ann. § 4-88-104 and the common law of the State of Arkansas.

6. This Court has personal jurisdiction over Defendant because Defendant resides in Arkansas and actively conducts business or commerce in the State of Arkansas.

7. Venue is proper pursuant to Ark. Code Ann. §§ 4-88-104, 4-88-112, 16-60-104 and the common law of the State of Arkansas.

IV. FACTUAL ALLEGATIONS

8. Defendant Paul Vujicic is the sole proprietor of Classic 24 Hr. Towing and Recovery.

9. Defendant's business, Classic 24 Hr. Towing and Recovery, is located in Hot Springs, Arkansas.

10. The towing and recovery business is an industry regulated by the Towing and Recovery Board such that every person, firm or entity engaged in the industry must be licensed and every tow vehicle must be issued a safety permit.¹

11. Defendant has never applied for nor been issued a valid Tow Business License from the Towing and Recovery Board, and thus Defendant's towing business activities are not permitted by that Board.

12. Classic's tow vehicles have never had a valid Tow Vehicle Safety Permit from the Towing and Recovery Board, and thus Defendant's towing vehicles are not inspected for their safety and compliance with state laws and regulations.

13. Defendant does not have a valid City of Hot Springs occupational tax permit.

14. Defendant does not have a Home Occupation Permit from the City of Hot Springs.

15. Defendant's tow vehicles do not have current motor vehicle registration or liability insurance from the State of Arkansas.

16. Defendant advertises on the website towing.com² and on yelp.com.³ On Yelp, Defendant states:

¹ Ark. Code Ann. § 27-50-1203 *et seq.*

² https://www.towing.com/US/Arkansas/Hot-Springs/71913/Classic-Towing-_And_-Recovery.

³ <https://www.yelp.com/biz/classic-towing-and-recovery-hot-springs-national-park>. On this site the business owner describes himself as "Uncle Pauly V." and states: "I've been in the Towing Services since the mid 70s [sic]. I've also had the pleasure of working for some of

“Classic 24hr. Towing & Recovery of Hot Springs National Park AR. [sic] We are your hometown company. If your car, light truck, or motorcycle breakdown, or needing roadside assistants, we can help. [sic] We also do unlocking of vehicle doors. After over 40 years in the business, we still do house calls! Serving the Motoring Public with Pride and Excellence. [sic] Be sure to ask about our discounts for seniors and all Military. [sic] Once a Customer Always a Friend. Thankyou in advance and May God Bless America[.][sic]”

17. On Facebook, under the username “@hotspringsclassictowing,” Defendant states “Classic Towing and Recovery of Hot Springs” is a towing service that offers “Towing & Road Service for cars, light trucks, and motorcycles in the Greater Hot Springs area including The Village[.]”⁴

18. Defendant’s Facebook page provides a link to an advertisement of his business on the website classic24hourtowing.jimdo.com.

19. On the site classic24hourhowing.jimdo.com, Defendant advertises:

“[w]e are proud to be your Home Town towing company! Classic 24hr Towing & Recovery in Beautiful Hot Springs National Park, we are your can do company, with over 40 years in the business!! [sic] We still make house calls. We also do roadside, Motor Clubs accepted. [sic] Local checks, Credit Cards, cash, are Welcome. [sic] When you refer us to a friend or family member please give us your name so we can buy you lunch. Our way of saying Thank You! Go Hogs God Bless”

20. Defendant first came to the attention of the Board in 2014 when Chief Investigator Terry Watson observed Classic 24 Hr. towing truck without the

the Greatest Towmen in the country, these men taught me the right way to tow everything from cars to heavy equipment. [sic] How to upright a rolled over semi, properly hooking up vehicles to tow. [sic] But the most important lesson, how to have great Customer Service. [sic] Without customer's you have no business. [sic]”

⁴ <https://www.facebook.com/pg/hotspringsclassictowing/services/>

required safety permit loading a vehicle in Hot Springs. At that time, Investigator Watson informed Mr. Vujicic that his towing business violated Arkansas law.⁵

21. In September 2017, Investigator Watson received information that Mr. Vujicic was still operating his illegal towing business and the Board opened an investigation.

22. As a result of Investigator Watson's investigation, Defendant was cited by the Towing and Recovery Board for operating a business in derogation of the statute and displaying a fabricated safety permit on the windshield of one of his towing vehicles.

23. On November 20, 2017, the Towing and Recovery Board ordered Defendant to cease all towing immediately, but Defendant continued to operate.

24. After an administrative hearing on February 28, 2018, the Board ordered Mr. Vujicic to pay a \$10,000 civil penalty before the Board would issue him a towing business license or safety permits.

25. In August 2018, Investigator Watson discovered that Mr. Vujicic was still towing vehicles in Hot Springs and operating two unpermitted trucks.

26. Defendant continues to operate two or more trucks branded with "Classic 24 Hr." or "Classic Towing & Recovery (501) 276-9992".

27. In December 2019, Paul Vujicic submitted a bid to perform towing and recovery work for the Arkansas Department of Transportation.

⁵ See Ex. 1 Affidavit of Towing Board Investigator Terry Watson

28. Defendant has been cited repeatedly by the Hot Springs Police Department for failure to register his towing vehicles, failure to have insurance, as well as safety and moving violations.

V. VIOLATIONS OF LAW

29. The ADTPA sets forth the State's statutory program prohibiting deceptive and unconscionable trade practices.⁶

30. The business practices of Defendant constitute the sale of "goods" or "services."⁷

31. The same business practices constitute business, commerce, or trade.⁸

32. It is unlawful to "knowingly make a false representation as to the characteristics, ingredients, uses, benefits, alterations, source, approval, or certification of goods or services...."⁹

33. Defendant displayed a falsified Tow Vehicle Safety Permit on his tow vehicle, misrepresenting to consumers the Board's sanction of his tow vehicle's safety and licensing status.

34. The law prohibits the "act, use, or employment by any person of any deception, fraud, or false pretense" in connection with the sale or advertisement of services.¹⁰

35. Defendant has engaged in prohibited conduct by:

⁶ Ark. Code Ann. §§ 4-88-101, *et seq.*

⁷ Ark. Code Ann. § 4-88-102(4) and (7).

⁸ Ark. Code Ann. § 4-88-107.

⁹ Ark. Code Ann. § 4-88-107(a)(1).

¹⁰ Ark. Code Ann. § 4-88-108(1).

- a. advertising services he is not legally authorized to provide;
- b. providing services he is not legally authorized to provide;
- c. advertising services that he has been ordered to cease and desist providing;
- d. providing services that he has been ordered to cease and desist providing;
- e. soliciting the Arkansas Department of Transportation to provide towing and recovery services under a bid; and,
- f. displaying a falsified tow safety permit on his tow vehicle.

36. The law prohibits the use of “concealment, suppression, or omission of any material fact with the intent that others rely upon the concealment, suppression, or omission” while selling any goods or services.¹¹

37. Defendant has engaged in prohibited conduct by displaying a falsified permit on his tow truck that concealed, suppressed, or omitted the material fact that his tow vehicle was not properly licensed or permitted with the intent that others rely upon the concealment, suppression, or omission while selling his services.

38. It is a violation to engage in unconscionable, false, or deceptive acts or practices in business, commerce, or trade.¹²

39. An unconscionable act is one that “affronts the sense of justice, decency, or reasonableness, including acts that violate public policy or a statute.”¹³

¹¹ Ark. Code Ann. § 4-88-108(2).

¹² Ark. Code Ann. § 4-88-107(a)(10).

A claim under the catch-all provision of the ADTPA proscribing unconscionable, false or deceptive acts or practices in business, commerce, or trade does not require knowledge of a false or deceptive practice or specific intent to deceive.¹⁴

40. Defendant has engaged in prohibited conduct by:

- a. advertising tow services he may not legally provide to consumers;
- b. providing tow services he may not legally provide to consumers; and
- c. bidding to provide towing services for the Arkansas Department of Transportation.

PRAYER FOR RELIEF

41. The Attorney General may bring a civil action to seek to prevent persons from engaging in the use or employment of prohibited practices.¹⁵

42. Likewise, the Attorney General may bring a civil action to seek to restore to any purchaser who has suffered any ascertainable loss by reason of the use or employment of the prohibited practices any moneys or real or personal property which may have been acquired by means of any practices declared to be unlawful, together with other damages sustained.¹⁶

43. The Attorney General may seek an injunction prohibiting any person from engaging in any deceptive or unlawful practice.¹⁷

¹³ *Independence County v. Pfizer, Inc.*, 534 F.Supp.2d 882, 886 (E.D. Ark. 2008) *aff'd* 552 F.3d 659 (8th Cir. 2009).

¹⁴ *Curtis Lumber Co., Inc. v. Louisiana Pacific Corp.* 618 F.3d 762, 776-77 (8th Cir. 2010).

¹⁵ Ark. Code Ann. § 4-88-113(a)(1).

¹⁶ Ark. Code Ann. § 4-88-113(a)(2)(A).

¹⁷ Ark. Code Ann. §§ 4-88-104 and 4-88-113(a)(1).

44. Any person who violates the provisions of the ADTPA may be assessed a civil penalty of up to \$10,000 per violation.¹⁸

45. In addition, any person who violates the provisions of the ADTPA shall be liable to the Office of the Attorney General for all costs and fees, including but not limited to, expert witness fees and attorney's fees, incurred by the Office of the Attorney General in the prosecution of such actions.¹⁹

46. A "person" is an individual, organization, group, association, partnership, corporation, or any combination thereof.²⁰

47. Paul Vujicic is a "person" who has engaged in an unconscionable, false, or deceptive act or practice in business, commerce, or trade.

48. The State will exercise its right to a trial by jury.

WHEREFORE, the above premises considered, the State of Arkansas, *ex rel.* Leslie Rutledge, Attorney General, respectfully requests that this Court:

- a. issue such orders, pursuant to Ark. Code Ann. §§ 4-88-104 and 4-88-113(a)(1), as may be necessary to prevent the use or employment by the Defendant of the practices described herein which are violations of the ADTPA and from continuing to advertise and operate a regulated business without having the proper board license and permit, vehicle registration, tax and business permits, and other requirements.

¹⁸ Ark. Code Ann. § 4-88-113(a)(3).

¹⁹ Ark. Code Ann. § 4-88-113(e).

²⁰ Ark. Code Ann. § 4-88-102(5).

- b. issue an order, pursuant to Ark. Code Ann. § 4-88-113(a)(2)(A), requiring Defendant to pay restitution to those Arkansas consumers affected by the activities outlined herein; in addition, or in the alternative, enter an order requiring Defendant to remit to affected consumers all sums obtained from Arkansas consumers by methods prohibited by Arkansas law;
- c. impose civil penalties pursuant to Ark. Code Ann. § 4-88-113(b), to be paid to the State by the Defendant in the amount of \$10,000.00 per each violation of the ADTPA proved at a trial of this matter, the full amount of which will exceed the amount necessary to establish federal diversity jurisdiction.
- d. issue an order, pursuant to Ark. Code Ann. § 4-88-113(e), requiring Defendant to pay the State's costs in this investigation and litigation, including, but not limited to, attorneys' fees and costs; and
- e. for all other just and proper relief to which the State may be entitled.

Respectfully submitted,

LESLIE RUTLEDGE
ATTORNEY GENERAL

By: 

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AFFIDAVIT OF TRACY WATSON

I, Tracy Watson, being first duly sworn, do state:

1. I am over 18 years old and have personal knowledge of the matters contained in this Affidavit.
2. I am employed by the Towing and Recovery Board, 7418 North Hills Blvd., North Little Rock, Arkansas as Chief Investigator. I have been in that position since July 2013.
3. My Chief Investigator role consists of conducting investigations regarding consumer complaints as well as enforcing compliance with Board rules and Arkansas law. In addition, I supervise the Board investigative staff, prepare investigative reports, and testify as an expert in Board administrative hearings. I am also a member of the Board's Rules and Regulations Committee.
4. Prior to becoming the Chief Investigator, I was a Deputy Sheriff for ten years and owned and operated a tow company for eighteen years.
5. In course of my work for the Board, I have personally conducted 300 investigations and overseen 200 investigations by other Board staff. I am very familiar with Arkansas's towing and recovery laws and regulations.
6. In course of my work, I investigated Paul Vujicic who does business as Classic 24 Hr. Towing and Recovery in Hot Springs, Arkansas.
7. I first came into contact with Mr. Vujicic and his towing business in the summer of 2014. At that time, I saw a GMC rollback tow truck with the signage "Classic 24 Hr. Towing & Recovery" loading a vehicle. The tow truck did not display a valid safety permit.
8. Upon making contact with Paul Vujicic, I explained the violations I was witnessing, informed him of the possible penalties. Mr. Vujicic stated that he would not tow any more vehicles until he was correctly licensed and permitted.

EXHIBIT

1

9. In September of 2017, I received information that the Better Business Bureau requested verification of Paul Vujicic's towing business. Based upon this information, I again made contact with Mr. Vujicic who stated that he was not engaged in the towing business, but only tows vehicles he purchases and sells.
10. In November 2017, the Board again received information that Paul Vujicic was operating an unlicensed towing business without required safety permits in violations of Arkansas law and Board regulations.
11. Based upon the information discovered during the investigation, I was able to determine that Paul Vujicic's business is located at a residential address: 334 Mason Street in Hot Springs. At that location, I found a 1988 GMC rollback tow truck parked in the driveway with an invalid permit sticker and displaying signage "Classic Towing & Recovery (501) 276-9992.
12. On November 20, 2017, the Board issued Mr. Vujicic a Notice of Violation and ordered to cease all towing activity.
13. During a telephone call on November 28, 2017, Mr. Vujicic acknowledged that he was towing and doing lock-outs for Allstate roadside.
14. On November 30, 2017, I interviewed a witness who confirmed that she contracted with Mr. Vujicic to have her vehicle towed after finding his tow company advertised online.
15. Based upon this information, the Board provided Mr. Vujicic with an administrative hearing on February 20, 2018, after which it issued its *Findings of Fact, Conclusions of Law, and Order*, No. 2018-11-040 finding that Mr. Vujicic violated Ark. Code Ann. § 27-50-1201(a), Board Rules 6.1 and 6.2., § 27-50-1203(e)(1)(A) and Rule 4.1.
16. The Board ordered Mr. Vujicic to pay a civil penalty of \$10,000 before it would be allowed to obtain any towing license or safety permit. This civil penalty has never been paid.

17. In August 2018, I investigated information that Mr. Vujicic had recovered/winched a U-Haul stuck in a ditch in Hot Springs. He was paid approximately \$250 cash for the unlicensed recovery service.
18. In November 2018, the Board issued another *Order and Notice of Hearing*, No. 2019-08-024 to Paul Vujicic based upon this information.
19. To this date, Paul Vujicic is operating a towing business that is not licensed by the Board and does not have safety permits for its trucks, yet he continues to advertise his towing services on classic24hrtowing.jimdo.com, Yelp®, and Facebook®.

The above is true and correct to the best of my knowledge. Further, this affiant sayeth naught.

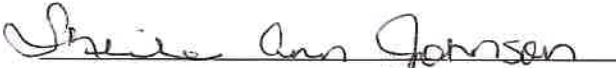

Chief Investigator Tracy Watson

01/14/2020
Date

STATE OF ARKANSAS)
)
COUNTY OF PULASKI)

On this the 14th day of January, 2020, before me, the undersigned notary, personally appeared Tracy Watson satisfactorily proven to be the person whose name is subscribed to the within instrument and acknowledged that he executed the same for the purposes therein contained.

In witness whereof I hereunto set my hand and official seal.


Signature of Notary Public

My Commission expires: 06-01-2027

[Seal of Office]

