

COMMON PLEAS COURT-GENERAL DIVISION

Clermont County, Ohio

Barbara Wiedenbein

Clerk of Courts

CLASSIFICATION FORM-Per: Sup. R.s 5, 36 and SRF Form A

This form must be completed by Plaintiff/Appellant/Applicant/Petitioner and filed with the complaint, appeal, application, or petition in all civil actions and filed with the Clerk.

State of Ohio ex rel. Attorney General
Michael DeWine
30 E. Broad St., 14th Fl.
Columbus, Ohio 43215

Judge:

2017 CVH 01242 JUDGE BROCK

Plaintiff

Case # _____

(to be completed by the Clerk)

VS

Auto Express of Cincinnati Inc.
203 W. Main St.
Amelia, Ohio 45102

And

Lonny D. Donnerberg, individually
566 Musket Dr. D-16
Cincinnati, Ohio 45244

Defendants

ATTORNEY/Pro Se Party: Rosemary E. Rupert, Assistant Attorney General (plaintiff)

SUPREME COURT NO.: 0042389

ADDRESS: Ohio Attorney General's Office, Consumer Protection Section, 30 E. Broad St., 14th Fl., Columbus, OH 43215

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CASE CATEGORY: SRF FORM A

- A. Professional Tort: medical legal other/type _____
- B. Product Liability: general nature _____
- C. Other Torts: general nature _____
- D. Workers Compensation _____
- E. Foreclosure: mortgage tax other lien/type _____

BARBARA A. WIENBEIN
CLERK OF COMMON PLEAS COURT
CLERMONT COUNTY, OH
2017 OCT -2 AM 8:31

FILED

F _____ Administrative Appeal: agency, board, department _____
G _____ Complex Litigation Requested Under Sup. R. 42
H Other Civil: (general nature) Consumer Sales Practices Violations R.C. 1345.01
et seq.
I _____ Criminal

Jury Demand: _____ YES _____ NO
Is this case a refiled case? _____ YES _____ NO
If yes: Prior Case No: _____ Prior Assigned Judge _____

(This information is required by Sup. R. 36(D) and Local R. 1.4 and must be completed)
03/27/17

FILED

IN THE COURT OF COMMON PLEAS
CLERMONT COUNTY, OHIO

2017 OCT -2 AM 8:31

STATE OF OHIO, ex rel.
MICHAEL DEWINE
ATTORNEY GENERAL OF OHIO
30 East Broad St., 14th Floor
Columbus, Ohio 43215

Plaintiff,

v.

AUTO EXPRESS OF CINCINNATI INC.
203 West Main Street
Amelia, Ohio 45102

and

LONNY D. DONNERBERG, individually,
566 Musket Drive D-16
Cincinnati, Ohio 45244

Defendants.

CASE NO.

JUDGE

2017 CVH 01242 JUDGE BROCK

BERNARD A. MICHELETTI
CLERK OF COMMON PLEAS COURT
CLERMONT COUNTY, OH

**COMPLAINT FOR
DECLARATORY JUDGMENT,
INJUNCTIVE RELIEF,
RESTITUTION, CIVIL
PENALTIES AND OTHER
APPROPRIATE RELIEF**

JURISDICTION AND VENUE

1. Plaintiff, State of Ohio, by and through 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 Ohio Consumer Sales Practices Act, 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, hereinafter described, have occurred in the State of Ohio, Clermont County and, as set forth below, are in violation of the Consumer Sales Practices

Act, 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 “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” 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) and (D).
5. The actions of Defendants, hereinafter described, have occurred in the State of Ohio and Clermont County.
6. Jurisdiction over the subject matter of this action lies with this Court pursuant to R.C. 1345.04 of the Consumer Sales Practices Act.
7. This Court has venue to hear this case pursuant to Ohio Civ. R. 3(B)(1)-(3), in that Defendants reside in, operated their business from, and engaged in the transactions complained of herein in Clermont County.

STATEMENT OF FACTS

8. Defendant Auto Express of Cincinnati Inc. (“Auto Express”) is an Ohio corporation last operating at 203 West Main Street, Amelia, Ohio 45102.
9. Defendant Lonny D. Donnerberg (“Donnerberg”) is an individual whose last known address is 566 Musket Drive D-16, Cincinnati, Ohio 45244.
10. Defendant Donnerberg was the owner of Defendant Auto Express, and dominated, controlled and directed the business activities and sales conduct of Auto Express, and

exercised the authority to establish, implement or alter the policies of Auto Express, and committed, allowed, directed, ratified or otherwise caused the following unlawful acts to occur.

11. 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 Amelia to consumers residing in Clermont and other Ohio counties.
12. Defendants, operating under the name Auto Express of Cincinnati Inc., solicited individual consumers to enter into consumer transactions, specifically for the sale of used motor vehicles.
13. At all relevant times hereto, Defendants held license #UD015443 issued by the State of Ohio under R.C. 4517.01 *et seq.*, allowing Defendants to engage in the business of displaying or selling at retail or wholesale used motor vehicles.
14. At all relevant times hereto, the Defendants were displaying or selling used motor vehicles at the Auto Express location.
15. Defendants failed to file applications for certificates of title within Thirty (30) days after the assignment or delivery of motor vehicles.
16. Defendants failed to obtain certificates of title on or before the Fortieth (40th) day after the sale of motor vehicles.
17. Title Defect Recision consumer claims totaling \$53,889.06 thus far were paid from the Title Defect Recision 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 motor vehicles.

CAUSE OF ACTION
VIOLATIONS OF THE CERTIFICATE OF MOTOR VEHICLE TITLE ACT

18. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs One through Seventeen (1-17) of this Complaint.
19. The Defendants engaged in unfair and deceptive acts or practices in violation of R.C. 1345.02 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).
20. 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).
21. 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 respectfully prays that this Court:

- A. **ISSUE A DECLARATORY JUDGMENT** declaring that each act or practice described in Plaintiff's Complaint violates the Consumer Sales Practices Act, 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 their officers, agents, servants, representatives, salespeople, employees, successors and assigns and all persons acting in concert or participating with them, directly or indirectly, from engaging in the acts or practices of which Plaintiff complains and from further violating the Consumer Sales Practices Act, 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 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 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. **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 unless any judgment arising from this lawsuit is satisfied in its entirety.
- H. **ORDER** that Defendant Donnerberg be prohibited from applying for, maintaining, or granted a salesperson or auto dealer license under Chapter 4517 of the Revised Code.
- I. **ORDER** the 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
Attorney General



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