

IN THE COURT OF COMMON PLEAS OF FRANKLIN COUNTY, OHIO

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

Plaintiff, )

v. )

AUTO FINANCE LLC )  
c/o Donald G. O'Connell )  
Statutory Agent )  
239 Chapelfield Rd. )  
Gahanna, Ohio 43230 )

and )

AUTO FINANCE SOUTH LLC )  
c/o Thad T. Rieger, Esq. )  
Statutory Agent )  
5775 Perimeter Dr., Suite 180 )  
Dublin, Ohio 43017 )

and )

DONALD G. O'CONNELL, Individually )  
239 Chapelfield Rd. )  
Gahanna, Ohio 43230 )

and )

CHRISTOPHER ALLISON, Individually )  
4171 Bidle Ct. )  
Dublin, Ohio 43016 )

Defendants. )

CASE NO.

JUDGE

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

**JURISDICTION**

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.*, the Retail Installment Sales Act, R.C. 1317.01 *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, Franklin County and other Ohio counties and, as set forth below, are in violation of the Consumer Sales Practices Act, R.C. 1345.01 *et seq.*, the Retail Installment Sales Act, R.C. 1317.01 *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 Franklin 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 some of the transactions complained of herein in Franklin County.

STATEMENT OF FACTS

8. Defendant, Auto Finance LLC (hereinafter "Auto Finance") is an Ohio limited liability company located at 3178 Cleveland Ave., Columbus, Franklin County, Ohio 43224.
9. Defendant Auto Finance South LLC (hereinafter "Auto Finance S.") is an Ohio limited liability company located at 1414 Parsons Ave., Columbus, Franklin County, Ohio 43207.
10. On information and belief, Defendant, Donald G. O'Connell (hereinafter "O'Connell") is an individual whose address is 239 Chapelfield Rd., Gahanna, Ohio 43230. Defendant O'Connell has an ownership interest in and operates Defendants Auto Finance and Auto Finance S. and dominated, controlled and directed the business activities and sales conduct of Defendants Auto Finance and Auto Finance S., and exercised the authority to establish, implement or alter the policies of Defendants Auto Finance and Auto Finance S., and committed, allowed, directed, ratified or otherwise caused the following unlawful acts to occur.
11. On information and belief, Christopher Allison (hereinafter "Allison" is an individual whose address is 4171 Bidle Ct., Dublin, Ohio 43016. Defendant Allison has an ownership interest in and operates Defendants Auto Finance and

Auto Finance S. and dominated, controlled and directed the business activities and sales conduct of Defendants Auto Finance and Auto Finance S., and exercised the authority to establish, implement or alter the policies of Defendants Auto Finance and Auto Finance S., and committed, allowed, directed, ratified or otherwise caused the following unlawful acts to occur.

12. Defendants are, and have been 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 two locations in Columbus to consumers residing in Franklin and other Ohio counties.
13. Defendants, operating under the names Auto Finance and Auto Finance S., solicited individual consumers to enter into consumer transactions, specifically for the sale of used motor vehicles.
14. Defendants offered financing to consumers interested in purchasing or leasing used motor vehicles through transactions commonly known as “buy here pay here”.
15. At all relevant times hereto, Defendant Auto Finance held license # UD016794 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.
16. At all relevant times hereto, Defendant Auto Finance S held license # UD018258 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.
17. At all relevant times hereto, the Defendants were displaying or selling used motor

vehicles at their Auto Finance and Auto Finance S. locations.

18. Some of the consumers who purchased used motor vehicles from the Defendants were required to make substantial deposits as partial payment for the used motor vehicles.
19. Consumers paid deposits for the purchase of used motor vehicles contingent upon financing through the Defendants (via “buy here pay here” purchasing and financing) and the Defendants delivered these motor vehicles without a written agreement stating the parties’ obligations should such financing not be obtained.
20. The Defendants failed to provide consumers with dated receipts stating:
  - a.) The time during which the option to purchase the used motor vehicles was binding.
  - b.) Whether the deposits, as that term is defined in O.A.C. 109:4-3-07(D), were refundable or under that conditions the deposits were refundable.
21. In some instances, a document captioned “Right of Repossession” was used by the Defendants for the sale of used motor vehicles.
22. In some instances, the “Right of Repossession” document included an acceleration clause, whereby upon default, all sums due under the contract were immediately due and payable at the Defendants option without notice to the buyers.
23. In some instances, the “Right of Repossession” document included a provision allowing repossession and resale without notice.
24. The Defendants failed to file applications for certificates of title within Thirty (30)

- days after the assignment or delivery of a motor vehicle.
25. The Defendants failed to obtain certificates of title on or before the Fortieth (40th) day after the sale of motor vehicles.
  26. The Defendants failed to send a notice to consumers informing the consumers of the default and why the default led to the vehicles' repossession within Five (5) days after the repossession and failed to allow the vehicles to be inspected by the consumers after the motor vehicles were repossessed.
  27. The Defendants failed to dispose of consumers motor vehicles after repossession in a commercially reasonable manner, and failed to provide a notice to the consumers at least Ten (10) days prior to disposition of the collateral stating the time and place the collateral would be sold, and the minimum price for which such collateral would be sold, together with a statement that the debtors could be held liable for any deficiency resulting from such sale.
  28. Defendants accelerated all payments due where the default in the retail installment contract payment was less than Thirty (30) days.
  29. Defendants failed to make certain repairs to the vehicles before or after the sale after promising to do so.

FIRST CAUSE OF ACTION

VIOLATIONS OF THE RETAIL INSTALLMENT SALES ACT (RISA)

30. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs One through Twenty-Nine (1-29) of this Complaint.

31. The Defendants included an acceleration clause in the document captioned "Right of Repossession", whereby upon default, all sums due under the contract were immediately due and payable at Defendants option, without notice to the consumers in violation of R.C. 1317.06(C).
32. The Defendants included in the "Right to Repossession" document a provision allowing repossession and resale without notice in violation of R.C. 1317.12.
33. The Defendants failed to send a notice setting forth specifically circumstances constituting a default within Five (5) days after repossessing consumers' motor vehicles, in violation of R.C. 1317.12.
34. The Defendants failed to allow the repossessed vehicles to be inspected by the consumers after repossessing the consumers' motor vehicles, in violation of R.C. 1317.12.
35. The Defendants failed to dispose of the consumers' vehicles after repossession in a commercially reasonable manner, and failed to provide notices to the consumers at least Ten (10) days prior to disposition of the collateral stating the time and place the collateral would be sold and the minimum price for which such collateral would be sold, together with a statement that the debtors could be held liable for any deficiency resulting from such sale, in violation of R.C. 1317.16.
36. The Defendants accelerated payments where the default in the contract payment was less than Thirty (30) days, in violation of R.C. 1317.06(C).
37. The acts and practices described in paragraphs 31-36 are unfair, deceptive and unconscionable sales practices in violation of the Consumer Sales Practices Act,

R.C. 1345.02 and R.C. 1345.03.

38. The acts or practices described in paragraphs 31-36 have been previously determined by Ohio courts to violate the Consumer Sales Practices Act, R.C. 1345.01 et seq. Defendants committed said violations after such decisions were available for public inspection pursuant to R.C. 1345.05(A)(3).

SECOND CAUSE OF ACTION

VIOLATIONS OF THE CONSUMER SALES PRACTICES ACT (CSPA)

39. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs One through Twenty-Nine (1-29) of this Complaint.
40. The Defendants required consumers to enter into consumer transactions on terms the Defendants knew were substantially one-sided in favor of the Defendants, in violation of R.C. 1345.02(A) and R.C. 1345.03(A) as set forth in R.C. 1345.03(B)(5).
41. The Defendants failed to provide to the consumers at the time of the initial deposits dated written receipts stating clearly and conspicuously the time during which the option to purchase the used motor vehicle was binding, whether the deposits were refundable and under what conditions, in violation of R.C. 1345.02(A) and the Ohio Adm. Code 109:4-3-07(B)(5).
42. The Defendants failed to make certain repairs to the vehicles before or after the sale after promising to do so, in violation of R.C. 1345.02.
43. The Defendants delivered motor vehicles to consumers pursuant to sales which



were contingent upon financing without written agreements stating the parties' obligations should such financing not be obtained in violation of R.C. 1345.02(A) and the Ohio Adm. Code 109:4-3-16(B)(30).

44. The acts or practices described in paragraphs 40 and 42 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).

### THIRD CAUSE OF ACTION

#### VIOLATIONS OF THE CERTIFICATE OF MOTOR VEHICLE TITLE ACT

45. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs One through Twenty-Nine (1-29) of this Complaint.
46. The Defendants engaged in unfair and deceptive acts and practices in violation of R.C. 1345.02 and R.C. 4505.06(A)(5)(b) by failing to file applications for certificates of title within Thirty (30) days after the assignment of delivery of motor vehicles.
47. The Defendants committed unfair or 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).
48. 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.*, the Retail Installment Sales Act, R.C. 1317.01 *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.*, the Retail Installment Sales Act, R.C. 1317.01 *et seq.*, and the Certificate of Motor Vehicle Title Act, R.C. 4505.01 *et seq.*
- C. ORDER Defendants jointly and severally liable for reimbursement to all consumers found to have been damaged by the Defendants' unfair, deceptive, and unconscionable acts and practices, and motor vehicle title violations.
- D. 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, deceptive or unconscionable acts alleged in the Complaint, pursuant to R.C. 1345.07(D).

- E. 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.
- 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 until they have satisfied all restitution, civil penalties, Attorney General costs to investigate and prosecute this action and any court costs ordered.
- H. ORDER the Defendants to pay all court costs.
- I. GRANT such other relief as the Court deems to be just, equitable and appropriate.

Respectfully submitted,

MICHAEL DEWINE  
Attorney General

*/s/ Rosemary E. Rupert*

---

ROSEMARY E. RUPERT (0042389)  
Assistant Attorney General  
Consumer Protection Section  
30 East Broad Street, 14<sup>th</sup> Floor

Columbus, Ohio 43215-3428  
(614) 466-8831 (phone)  
(614) 466-8898 (fax)  
*Counsel for Plaintiff*