

IN THE COURT OF COMMON PLEAS  
FRANKLIN COUNTY, OHIO

11 CVH06 - 7429

STATE OF OHIO, ex rel. )  
ATTORNEY GENERAL )  
R. MICHAEL DEWINE )  
30 East Broad Street, 14<sup>th</sup> Floor )  
Columbus, Ohio 43215 )

Case No:

PLAINTIFF, )

Judge:

v. )

Allcare Dental Management, LLC )  
8203 Main Street, Suite 8 )  
Williamsville, New York 14221 )

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

and )

Allcare Dental Management, Inc. )  
8203 Main Street, Suite 8 )  
Williamsville, New York 14221 )

and )

Allcare Dental & Dentures, )  
Inc. of Ohio – Bates )  
8203 Main Street, Suite 8 )  
Williamsville, New York 14221 )

DEFENDANTS. )

FILED  
COMMON PLEAS COURT  
FRANKLIN CO. OHIO  
2011 JUN 17 AM 9:44  
CLERK OF COURTS

JURISDICTION AND VENUE

1. Plaintiff, State of Ohio, by and through counsel, the Attorney General of Ohio, R. 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 R.C. 1345.07.

2. The actions of Defendants, Allcare Dental Management, Inc., Allcare Dental Management, LLC, and Allcare Dental & Dentures, Inc. of Ohio - Bates (“Defendants”), hereinafter described, have occurred in the State of Ohio, and as set forth below are in violation of the Consumer Sales Practices Act, R.C. 1345.01. Jurisdiction over the subject matter lies with this Court pursuant to the Consumer Sales Practices Act, R.C. 1345.01 et seq.
3. This Court has venue to hear this case pursuant to Ohio Civ. R. 3(B)(1)-(3), in that some of the transactions complained of herein, and out of which this action arose, occurred in Franklin County, Ohio.

#### **DEFENDANTS**

4. Defendant Allcare Dental Management, LLC is a limited liability company incorporated under the laws of the State of Pennsylvania, with a principal place of business at 8203 Main Street, Suite 8, Williamsville, New York 14221.
5. Defendant Allcare Dental Management, Inc. is a corporation incorporated under the laws of the State of Pennsylvania, with a principal place of business at 8203 Main Street, Suite 8, Williamsville, New York 14221.
6. Defendant Allcare Dental & Dentures, Inc. of Ohio – Bates is an entity with a principal place of business at 8203 Main Street, Suite 8, Williamsville, New York 14221. Prior to May 4, 2011 it was a professional corporation incorporated under the laws of the State of Ohio. On or about May 4, 2011 its corporate charter was revoked by the Ohio Secretary of State for failure to maintain a registered agent.
7. Defendants Allcare Dental Management, Inc., Allcare Dental Management, LLC, and Allcare Dental & Dentures, Inc. of Ohio - Bates are collectively referred to as

“Defendants” or “Allcare” in this complaint. Defendants operate as a single entity and are collectively owned and operated by the same officers.

8. Defendants are “suppliers” as defined in R.C. 1345.01(C) since Defendants at all times relevant hereto were engaged in the business of effecting consumer transactions either directly or indirectly by soliciting and selling goods or services to consumers in the State of Ohio for purposes that were primarily for personal, family or household use, within the meaning specified in R.C. 1345.01(A).

### **STATEMENT OF FACTS**

9. Defendants operated a nationwide chain of offices titled “Allcare Dental and Dentures,” including, prior to going out of business, at least sixteen offices in Ohio.
10. Defendants employed or contracted with dentists to provide dental services to Allcare consumers. Allcare also manufactured and provided dentures to its consumers.
11. Allcare solicited potential consumers through direct mailings, newspaper advertisements, and a website.
12. If a potential consumer could not afford to pay cash for Allcare’s services, an Allcare employee would present the consumer with an application for a third-party financing agreement and would attempt to persuade the consumer to fill out the agreement. Many consumers were required to pay in advance for an entire year of services.

13. Allcare consumers primarily interacted with a salesperson or other non-dental employee at Allcare.
14. Many Allcare consumers were treated by more than one dentist. Many Allcare consumers reported to the Attorney General that they could not remember the name of their dentist either because they saw several dentists or that they saw a dentist for so short a time-period that no relationship developed. One consumer reported seeing ten different dentists.
15. On or about January 1, 2011, Allcare closed all of its offices in Ohio and stopped holding appointments for consumers. Scheduled appointments for consumers were canceled and not rescheduled.
16. Allcare consumers were not provided notice of the pending closure. Many consumers who had scheduled appointments for late December 2010 were contacted by Allcare prior to their appointments, were told that Allcare was taking a break for the holidays, and had their appointments rescheduled for January 2011. Other consumers only realized Allcare had closed its offices when they arrived at the office for their appointment and saw that it was closed.
17. Most Allcare employees, including dentists, were not aware of the pending closure.
18. Allcare consumers who paid in advance for products or services did not receive these products or services after Allcare closed its offices.
19. Allcare has not refunded consumers who paid in advance for products or services that were not provided.

20. Allcare's actions have impacted a large number of Ohioans. The Office of the Attorney General has received over 900 complaints from Allcare consumers since Allcare closed its offices. At least 600 of these consumers state that Allcare has not refunded them for products or services that were not provided.
21. Despite closing its Ohio offices, canceling consumer appointments, and not refunding Ohio consumers, Defendants remain in existence and have not filed for bankruptcy.

### **FIRST CAUSE OF ACTION**

#### **Violations of the Consumer Sales Practices Act**

22. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs One through Twenty-One (1-21) of this Complaint.
23. Defendants have engaged in unfair and deceptive acts and practices in violation of R.C. 1345.02 by a) charging consumers for products and services that were not delivered or provided and b) not providing refunds to these consumers.
24. Such acts and practices 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).

### **PRAYER FOR RELIEF**

**Wherefore**, Plaintiff respectfully requests that this Court:

1. **ISSUE A PERMANENT INJUNCTION** enjoining Defendants Allcare Dental Management, Inc., Allcare Dental Management, LLC, and Allcare Dental &

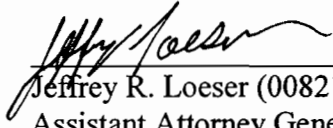
Dentures, Inc. of Ohio - Bates, their agents, servants, representatives, salespeople, employees, successors or assigns and all persons acting in concert or participating with them, directly or indirectly, from engaging in the acts or practices of which Plaintiff complains and from further violation of the Consumer Sales Practices Act, R.C. 1345.01 et seq.

2. **ISSUE A DECLARATORY JUDGMENT** declaring that each act or practice described in Plaintiff's First Cause of Action violates the Ohio Consumer Sales Practices Act, R.C. 1345.01 et seq.
3. **ORDER** Defendants Allcare Dental Management, Inc., Allcare Dental Management, LLC, and Allcare Dental & Dentures, Inc. of Ohio - Bates, pursuant to R.C. 1345.07(B), to reimburse all consumers damaged by its unfair and deceptive acts or practices, including non-economic damages.
4. **ASSESS, FINE, AND IMPOSE** upon Defendants Allcare Dental Management, Inc., Allcare Dental Management, LLC, and Allcare Dental & Dentures, Inc. of Ohio - Bates a civil penalty of Twenty Five Thousand Dollars (\$25,000) for each appropriate violation described herein pursuant to R.C. 1345.07(D).
5. **ORDER**, as a means of insuring compliance with this Court's Order and with the consumer protection laws of Ohio, that Defendants Allcare Dental Management, Inc., Allcare Dental Management, LLC, and Allcare Dental & Dentures, Inc. of Ohio - Bates maintain in their possession and control for a period of five (5) years all business records relating to Allcare Dental Management, Inc., Allcare Dental Management, LLC, and Allcare Dental & Dentures, Inc. of Ohio - Bates, and to

- permit the Ohio Attorney General or his representative, upon reasonable twenty-four (24) notice to inspect and/or copy any and all such records.
6. **GRANT** the Ohio Attorney General its costs in bringing this action.
  7. **ORDER** Defendants Allcare Dental Management, Inc., Allcare Dental Management, LLC, and Allcare Dental & Dentures, Inc. of Ohio - Bates to pay all court costs.
  8. **GRANT** such other relief as the Court deems to be just, equitable, and appropriate.

Respectfully submitted,

R. MICHAEL DEWINE  
Ohio Attorney General

  
\_\_\_\_\_  
Jeffrey R. Loeser (0082144)  
Assistant Attorney General  
Consumer Protection Section  
30 East Broad Street, 14<sup>th</sup> Floor  
Columbus, Ohio 43215  
614-466-1305 (telephone)  
877-650-4712 (fax)  
jeff.loeser@ohioattorneygeneral.gov

Counsel for Plaintiff,  
Ohio Attorney General