

DISTRICT COURT, ARAPAHOE COUNTY, COLORADO Court Address: 7325 S Potomac St, Centennial, CO, 80112	DATE FILED: February 1, 2016 9:43 AM CASE NUMBER: 2015CV32600  <p style="text-align: center;"><b>⚠ COURT USE ONLY ⚠</b></p>
<b>Plaintiff(s)</b> STATE OF COLORADO et al. v. <b>Defendant(s)</b> COUNTY LINE VACUUM APPLIANCE INC et al.	
Case Number: 2015CV32600 Division: 14                      Courtroom:	
<b>Order: (PROPOSED) PRELIMINARY INJUNCTION ORDER</b>	

The motion/proposed order attached hereto: GRANTED.

Issue Date: 2/1/2016



CHRISTOPHER CHARLES CROSS  
 District Court Judge

DISTRICT COURT, COUNTY OF ARAPAHOE,  
STATE OF COLORADO  
7325 S. Potomac St.  
Centennial, Colorado 80112

STATE OF COLORADO, ex rel. CYNTHIA H.  
COFFMAN, ATTORNEY GENERAL

Plaintiff,

v.

COUNTY LINE VACUUM & APPLIANCE, INC.  
DBA AAAA TELEVISION ELECTRONIC  
VACUUM & APPLIANCE and MUHAMMED  
MURIB, AND OMAR MURIB, INDIVIDUALLY

Defendants.

▲ COURT USE ONLY ▲

Case No.: 2015CV32600

**(PROPOSED) PRELIMINARY INJUNCTION ORDER**

This matter came before the Court on January 20, 2016 for a hearing on Plaintiff's Motion for Preliminary Injunction. Plaintiff, the State of Colorado, upon relation of Cynthia H. Coffman, Attorney General for the State of Colorado, appeared through its attorneys, Jeffrey M. Leake and John Feeney-Coyle. Defendants County Line Vacuum & Appliance, Inc. dba AAAA Television Electronic Vacuum & Appliance (hereinafter, "AAAA TEVA") and Muhammed Murib appeared through counsel, Benjamin W. Hartford and Jamie Cowan. Defendant Omar Murib was also present and represented by counsel, Louis L. Underbakke.

1. On January 20<sup>th</sup>, 2016, Plaintiff offered testimony from 13 witnesses. Defendants AAAA TEVA and Muhammed Murib offered testimony from two witnesses.

2. On January 26, 2016, the parties appeared before the Court and presented closing arguments.

3. Plaintiff presented a number of witnesses at the January 20<sup>th</sup> hearing providing the following summarized testimony:

- a. Regarding the State's allegation that the Defendants' systemically made false repair claims, the State presented seven (7) consumer witnesses who testified in conformity with their affidavits in support of the State's Motion for a Preliminary Injunction. These consumers had given their electronic items to the Defendants for repair, including televisions, projectors and audio equipment.
- b. These consumers testified that, among other things, they were charged a non-refundable diagnostic fee which resulted in a variety of false diagnoses such as the necessity to replace "circuit boards" or "motherboards," that did not exist, thereby inflating the cost of repair several hundred to several thousand dollars above the paid diagnostic fee.
- c. Captain Caleb Connor of the Bennet Fire Department testified that Defendants charged \$1,789.96 to repair a department training projector, providing a handwritten invoice that documented a repair to the main circuit board and "reseated" capacitors. Defendants' own repair records, however, showed that only a temperature sensor had been replaced at a parts cost of \$39.21. Similar discrepancies were shown with other consumer repairs.
- d. Robert Clarke, owner of Profundo, a company that distributed a Viva amplifier owned by a consumer and given to Defendants for repair, reviewed the invoice provided by Defendants. In his sworn affidavit, Mr. Clarke noted that this specific amplifier did not have circuitry boards, relays, or transistors, as claimed in the invoice provided to the consumer.
- e. The State introduced seven (7) of the Defendants handwritten invoices as exhibits. All seven invoices contained essentially the same terminology, regardless of whether the item was a television, projector, or audio equipment. All of these invoices referred to repair of a "main circuit board" or "motherboard." All of these invoices contained similar strings of terminology, such as "*resseat capacitor-resistor relay-modification-calibration-balance-alignment-fine tune.*"
- f. Steven Gonzales and Cliff Stein were employed as repair technicians for the Defendants and called by Plaintiff to testify regarding the actual repairs performed. Their testimony showed that they had not actually performed the repairs as claimed by the Defendants in their invoicing and oral representations to consumers. Their testimony and exhibits showed that, as a matter

of routine, they documented each repair by providing the Defendants with a handwritten narrative including pricing of replaced or repaired parts. The subsequent invoices provided to consumers did not reflect the actual work performed on the repaired item or the actual, much lower cost.

- g. Regarding the Defendants' advertising repair of cracked television screens, Plaintiff provided testimony that Defendants rarely repaired cracked screens and that the Defendants were running a classic "bait and switch" scheme. Consumers had to pay a non-refundable diagnostic fee towards the potential repair of their cracked screen television. Defendants' repair technician Cliff Stein testified that, as a repair technician, he did not actually repair or replace the consumers cracked television screens. Rather, he spent approximately 15 minutes per television in order to confirm that the screen was indeed cracked. Mr. Stein testified that repairing or replacing cracked television screens usually cost more than the television was worth.
- h. The testimony of Defendants' salesman, Chris Sidarius, showed that the Defendants objective was to get consumers to pay a non-refundable diagnostic fee for potential repair, then inform the consumer that repair was too costly, leaving them with no other recourse but to apply the diagnostic fee towards the purchase of one of Defendants' television for sale.
- i. Regarding the State's allegation that the Defendants' in-home television repair advertising is deceptive, the State presented credible testimony from Andrew Carter, a former mobile repair technician. Mr. Carter testified that he and the other mobile technicians had no training or education in electronics repair and they were instructed to remove the back cover of consumers' televisions and pretend to diagnose the faulty equipment issue. Mr. Carter testified that as he was not a skilled technician he was "afraid" to tamper with the televisions and potentially cause additional damage. Mr. Carter further testified that the mobile trucks were not equipped with the tools or parts necessary to carry out in-home television repair. Mr. Carter testified that consumers were frustrated when in home repairs on their televisions were not accomplished, as clearly claimed in Defendants' advertising.

The Court, having considered the evidence, the pleadings and the relevant legal authority, hereby FINDS and CONCLUDES that a Preliminary Injunction should be entered for the following reasons:

1. This Court has jurisdiction in the matter presented herein by virtue of Colo. Rev. Stat. § 6-1-110(1) (2015) and Rule 65, C.R.C.P.

2. This Court is expressly authorized to issue a Preliminary Injunction to enjoin ongoing violations of the Colorado Consumer Protection Act (“CCPA”):

Whenever the attorney general or a district attorney has cause to believe that a person has engaged in or is engaging in any deceptive trade practice listed in section 6-1-105, the attorney general or district attorney may apply for and obtain, in an action in the appropriate district court of this state, a temporary restraining order or injunction, or both, pursuant to the Colorado rules of civil procedure, prohibiting such person from continuing such practices, or engaging therein, or doing any act in furtherance thereof. The court may make such orders or judgments as may be necessary to prevent the use or employment by such person of any such deceptive trade practice or which may be necessary to completely compensate or restore to the original position of any person injured by means of any such practice or to prevent any unjust enrichment by any person through the use or employment of any deceptive trade practice.

Colo. Rev. Stat. § 6-1-110(1).

3. For the reasons outlined in the Court’s January 26, 2016 ruling from the bench, the Court finds and concludes that Plaintiff has met its burden for a preliminary injunction under the CCPA and *Rathke v. MacFarlane*, 648 P.2d 648 (Colo. 1982).

4. The Court finds credible the testimony of the State’s thirteen (13) witnesses and the exhibits presented therein.

5. The Court finds that the Defendants knowingly made false repair claims.

6. The Court finds that Defendants’ advertising of in-home television repair was a scam to get televisions into their shop for purposes of diagnosing and performing often false, costly repairs and to obtain a trip fee or a non-refundable diagnostic fee.

7. The Court finds the State has met its burden under the first *Rathke* factor of “demonstrating a reasonable probability of success on the merits.”

8. While the State is not required to prove the second *Rathke* factor (that there is a danger of real, immediate and irreparable injury) when a statute concerning the public interest is implicated (*see Kourlis v. Dist. Court*, 930 P.2d 1329, 1335 (Colo. 1997)), the State presented evidence that showed irreparable injury would occur, if the preliminary injunction were not ordered. Investigator LeAnn Lopez testified that Defendants’ performed approximately 2,500 repairs in 2014, suggesting that as many as 7,500 consumers may have been affected by the Defendants’ deceptive trade practices during the three years prior to the State’s action. Were the case to take an additional year to proceed to trial, the number of potential consumer victims entitled to restitution could reach 10,000. There was no testimony which indicated that the Defendants maintain a potential reserve of funds to adequately compensate consumers if the State prevails at trial.

9. Nor could the courts work fast enough to stop the deceptive behaviors, without an injunction in place. Accordingly, the State has met the third *Rathke* factor of showing that “there is no plain, speedy and adequate remedy at law.”

10. The public interest is greatly served by shutting down Defendants’ repair shop. The State has met the fourth *Rathke* factor of showing that “the granting of the preliminary injunction will not disserve the public interest.”

11. The fifth requirement of *Rathke*, that “the balance of the equities favors entering an injunction,” is clearly met in this case. Equity requires that the Court prevent the continuation of false and misleading trade practices.

12. The sixth *Rathke* factor, that the injunction will preserve the status quo pending a trial on the merits,” is also met. The status quo for this case is the time prior to the commencement of the Defendants’ deceptive trade practices.

13. The Court incorporates herein its January 26, 2016 oral ruling as well as the findings and conclusions supporting the Court’s November 4, 2015 Temporary Restraining Order in this matter.

14. Pursuant to C.R.C.P. Rule 65(c), Plaintiff is not required to provide a security bond.

**IT IS HEREBY ORDERED PURSUANT TO C.R.S. § 6-1-110(1) AS FOLLOWS:**

Defendants and their officers, directors, agents, servants, employees, independent contractors and any other persons in active concert or participation

with Defendants who receive actual notice of the Court's order are **ENJOINED** from:

1. Engaging in the commercial repair of consumer goods, including, but not limited to, soliciting consumer goods for repair, accepting consumer goods for repair, accepting consumer goods for repair from outside sources, and repairing consumer goods.
2. Advertising any form of consumer goods repair, including, but not limited to "in-home" television repair, television repair, projector repair, audio or stereo repair, vacuum repair, sewing machine repair, and any form of consumer electronic repair.
3. Transferring, gifting, assigning, encumbering, selling, dissipating, or otherwise disposing of the following vehicles which are owned by the corporate Defendants:
  - a. White, 2014, Mercedes Sprinter, VIN: WD3PE8DC3E5858652. Colorado license plate number: 761QKN.
  - b. White, 2014, Mercedes Sprinter, VIN: WD3PE8DC9E5870045. Colorado license plate number 333QKR.
  - c. Grey, 2014, Mercedes ML3, VIN: 4JGDA5HB8EA365444. Colorado license plate number 473QMD.
  - d. Yellow, 2006, GMC Van, VIN: 1GDHG31U461902134. Colorado license plate number 841VNU.
  - e. White 2014, Toyota, Utility vehicle, VIN: JTEBU5JR7E5169641. Colorado license plate: 701 QBW.
  - f. Any other vehicles owned by the corporate Defendants.

Effective *nunc pro tunc* January 26, 2016.

BY THE COURT:

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The Honorable Christopher Cross  
District Court Judge