

IN THE CIRCUIT COURT OF DAVIDSON COUNTY
FOR THE TWENTIETH JUDICIAL DISTRICT AT NASHVILLE

STATE OF TENNESSEE *ex rel.* HERBERT H.)
SLATERY III, Attorney General and Reporter,)

Plaintiff,)

v.)

DOC DISINFECTANT LLC,)

Defendant.)

Case No. _____

JURY DEMAND

CIVIL ENFORCEMENT COMPLAINT

INTRODUCTION

This civil enforcement action is brought to remedy the deceptive and misleading claims made by the Defendant throughout the ongoing COVID-19 pandemic. During this time, Defendant has made a multitude of misleading claims related to disinfecting and protecting against COVID-19. The Defendant explicitly advertised that it provided EPA- and FDA-approved products and services that could protect a business from COVID-19 for up to 90 days. These advertisements were entirely false.

The State of Tennessee, through its Attorney General and Reporter, Herbert H. Slatery III, brings this civil enforcement action under the Tennessee Consumer Protection Act of 1977, Tennessee Code Annotated §§ 47-18-101–131 (TCPA), and the Attorney General’s power at common law to obtain temporary and permanent injunctive relief, rescission or reformation of contracts, restitution, refund of monies paid, disgorgement of ill-gotten gains, civil penalties, attorneys’ fees, and other equitable and statutory relief for Defendant’s violations of the TCPA.

1. The State has reason to believe that Defendant has engaged in, are engaging in, or is about to engage in acts or practices declared unlawful by the TCPA in the operation of their retail business.

2. At all material times, Defendant has engaged in acts or practices that affect the conduct of trade or commerce, as defined in Tennessee Code Annotated § 47-18-103(20).

3. The State has reason to believe that this civil enforcement action is in the public interest.

JURISDICTION AND VENUE

4. This Court has subject matter jurisdiction under Tennessee Code Annotated § 47-18-108(a).

5. As a court of general jurisdiction, the Circuit Court is authorized to hear this matter and sit as a court of equity in this matter under Tennessee Code Annotated §§ 16-10-101 and -111.

6. Defendant is subject to jurisdiction in this state because they have conducted and continue to conduct business in Tennessee from its Nashville, Tennessee location. *See* Tenn. Code Ann. § 20-2-223.

7. Defendant is further subject to jurisdiction in this state on any other basis authorized by law or not inconsistent with the constitutions of Tennessee or the United States. *See* Tenn. Code Ann. § 20-2-225.

8. Venue is proper in Davidson County under Tennessee Code Annotated § 47-18-108(a)(4) because it is one of the counties where the unfair, deceptive, and misleading acts and practices took place, and it is one of the counties in which Defendant conducts, transacts, or has conducted or transacted business.

THE PARTIES

9. Plaintiff, the State of Tennessee, is one of the fifty sovereign states of the United States. Herbert H. Slatery III is the Attorney General and Reporter of the State of Tennessee and has been duly appointed to serve as Attorney General by the Tennessee Supreme Court.

10. Defendant, DOC Disinfectant LLC (DOC) is a foreign limited liability company with a principal address of 3855 State Route 45 N., Mayfield, KY 42066.

11. DOC has a local office, located at 55 Music Square E Ste E, Nashville, TN 37203. This office is listed as the company's location on docdisinfectant.com.

12. DOC has been registered with the Tennessee Secretary of State since May 21, 2020.

FACTUAL ALLEGATIONS

13. In March 2020, the COVID-19 pandemic reached a critical level in Tennessee, causing Governor Lee to issue several Executive Orders limiting non-essential businesses from operating in a normal fashion. Exec. Order No. 17 (March 22, 2020); Exec. Order No. 21 (March 30, 2020). These Executive Orders essentially shut down bars, restaurants, and other retail-focused businesses for several weeks as the State worked to reduce the spread of the virus.

14. Similarly, several Tennessee cities, including Nashville, have required that certain businesses remain closed or operate at limited capacity. In light of the number of active COVID-19 cases, variations of these orders have been adopted and remain in effect today.

15. During the early days of the pandemic and the related shutdowns, DOC was formed by Kenneth Harris, who registered the business in Kentucky on April 20, 2020.

16. Since then, DOC has made multiple different misleading claims on its website, changing their claims over time as the Attorney General and the Department of Agriculture began to look more closely at the activities of DOC.

ORIGINAL CLAIMS

17. In April and May of 2020, DOC made several specific claims online related to COVID-19.

18. During this time, on its website, DOC explicitly advertised products and services related to COVID-19, as seen in *Illustration A*.



Illustration A

19. DOC advertised that it could provide FDA- and EP-approved products and services that would kill COVID-19 and protect against the virus on surfaces for up to 90 days.

20. However, the product that DOC used, Goldshield 5, was not FDA or EPA approved to kill viruses, including SARS-CoV-2, the virus that causes COVID-19.

21. Many of these COVID-19 specific claims have since been removed from the website, but other, similar claims, as detailed below, are still made.

22. On the homepage of its website, DOC also listed the logos of several large, well-known companies that it supposedly “proudly served” to build a reputation with consumers as a legitimate business. These companies included: Panda Express, Public Storage, Sweetgreen, McDonald’s, Charter Communications, and iHeartRadio.

23. Panda Express, Public Storage, Sweetgreen, and McDonald's all confirmed that they *never* worked with DOC or approved the use of their logos. The other companies did not respond to the State's inquiries. DOC has since removed these logos from its website.

CURRENT CLAIMS

24. On May 19, 2020, an investigator for the Attorney General delivered a letter to owner Ken Harris. This letter requested information substantiating DOC's claims. In the days after this letter was delivered, DOC changed the claims made on its website to take out many specific references to COVID-19.

25. On the landing page of its current website, docdisinfectant.com, DOC states that it is "Your Partner in the New Clean."

26. Below this statement is a link entitled "Learn More." If a consumer clicks on this link, a video begins to play. The first line of the video is, "since the breakout of COVID-19 . . ." The narrator of the video goes on to describe how DOC can help businesses reopen safely and stay open by providing a service that provides "elimination and guaranteed 30 days surface protection against micro-organisms."

27. While these claims are being made, workers wearing white coveralls labeled with the DOC logo, respirators, and other personal protective equipment are shown spraying a solution and wiping down surfaces inside an example business to show what the process looks like.

28. Similarly, under the "Sanitizing Service" page on the current version of the website, DOC states that the "recent pandemic" has lead DOC to work around the clock "to create a lasting

solution,” clearly implying that their solution is meant to protect against COVID-19, as seen in

Illustration B.

Since the recent pandemic, many businesses and facilities have had to close their doors and many jobs have been temporarily or permanently terminated. With work spaces, surfaces and people being the source of spreading, many are wondering when, if ever, our society will return back to normal. That's why we at DOC Disinfectant™ have been working around the clock to create a lasting solution.

Illustration B

29. Under the “Sanitizing Services” tab lies a description of DOC’s technology. This explanation, seen in ***Illustration C*** below, is almost identical to the original description that specifically mentioned COVID-19.

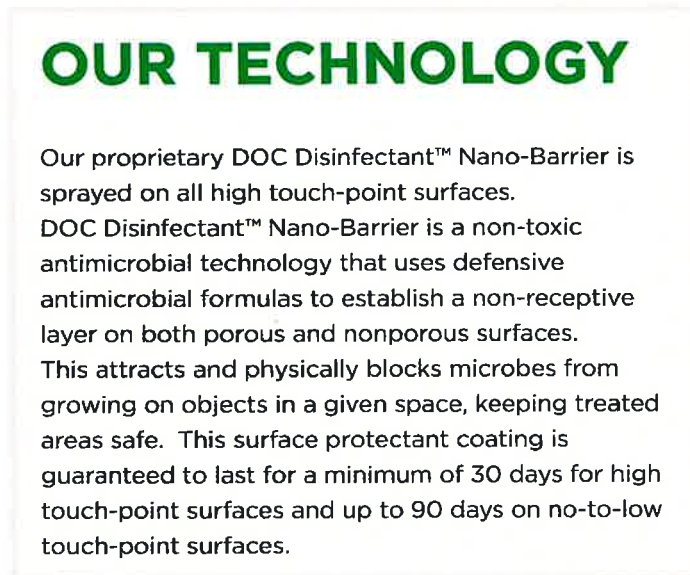


Illustration C

30. On the “Our Process” tab, DOC explains its two-step process disinfecting a business. DOC’s first step currently uses a disinfectant approved by the EPA for use against SARS-CoV-2, the virus that causes COVID-19, as seen in ***Illustration D***. By specifically referencing this virus, DOC lets the consumer know that its entire process is specifically designed to protect against COVID-19.



Illustration D

31. In the second step, the company uses a “non-toxic antimicrobial product” on all touch-point surfaces that protects against *all harmful* microorganisms for a minimum of 30 days, as seen in *Illustrations E and F*.

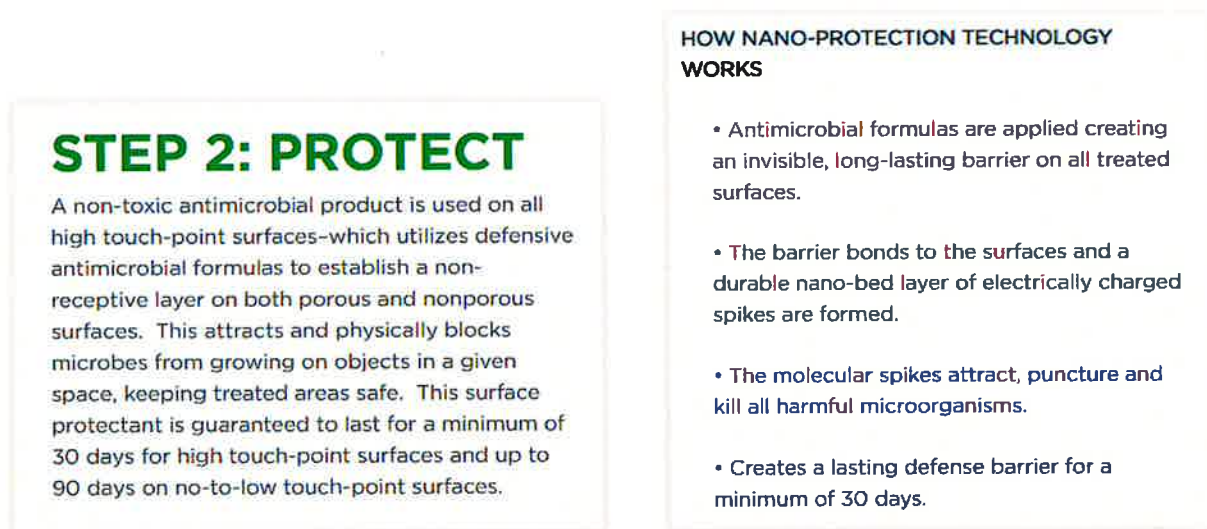


Illustration E

Illustration F

32. By laying the explanation of the process in this way, DOC leads the consumer to believe that the substance used in Step 2 is also approved by the EPA for use against COVID-19, when it is not. This leads to a false belief by a consumer that they will be protected from COVID-19 for 30 to 90 days, which is not backed up by the EPA or FDA.

VIOLATIONS OF LAW

Violations of the TCPA Tenn. Code Ann. § 47-18-104

33. Plaintiff, the State of Tennessee, adopts by reference and re-alleges every allegation contained in paragraphs 1–32 of this Complaint.

34. By claiming that their cleaning products and services, including Goldshield 5, were EPA-approved to kill COVID-19, Defendant engaged in deceptive trade practices in violation of Tennessee Code Annotated § 47-18-104(a), (b)(2), (b)(5), and (b)(27).

35. By claiming that their cleaning products and services, including Goldshield 5, were FDA-approved to kill COVID-19, Defendant engaged in deceptive trade practices in violation of Tennessee Code Annotated § 47-18-104(a), (b)(2), (b)(5), and (b)(27).

36. By claiming association with several major companies through the use of their logos on its website, Defendant engaged in deceptive business practices in violation of Tennessee Code Annotated § 47-18-104(a), (b)(3), and (b)(27).

37. By referring to the “recent pandemic” on the “Sanitation Service” page of its website, Defendant has engaged in deceptive business practices in violation of Tennessee Code Annotated § 47-18-104(a) and (b)(27).

38. By claiming that it’s Nano-Barrier technology kills “all harmful microorganisms” for a minimum of 30 days and up to 90 days, Defendant has engaged in a deceptive trade practices in violation of Tennessee Code Annotated § 47-18-104(a), (b)(5), and (b)(27).

PRAYER FOR RELIEF

Therefore, Plaintiff, the State of Tennessee, under Tennessee Code Annotated § 47-18-108(a) and (b), the Attorney General's power at common law, and this Court's own equitable powers, requests that this Court:

A. Order that this Complaint be filed without cost bond as provided by Tennessee Code Annotated §§ 20-13-101, 47-18-108, and 47-18-116;

B. Order that all costs in this case be taxed against the Defendant and no costs be taxed to the State of Tennessee as provided in Tennessee Code Annotated § 47-18-116; and

C. Adjudge and decree that the Defendant has engaged in the aforementioned acts and practices which violate the TCPA;

D. Enter judgment against the Defendant and in favor of the State of Tennessee for each violation alleged in this Complaint;

E. Enter a permanent injunction to prevent future violations of the TCPA by the Defendant;

F. Adjudge and decree that the Defendant pay civil penalties of not more than \$1,000 per violation to the State of Tennessee for each violation of the TCPA as provided by Tennessee Code Annotated § 47-18-108(b)(3);

G. Award such relief as the Court finds necessary to redress consumer injury resulting from the Defendant's violations of the TCPA, including, but not limited to rescission or reformation of contracts, restitution including pre-judgment statutory interest and the costs of a restitution administrator to effectuate redress, refund of monies paid, and disgorgement of ill-gotten gains;

H. Enter judgment in favor of the State of Tennessee for the reasonable costs and expenses of the investigation and prosecution of this action, including attorneys' fees, expert, and

other witness fees, and costs, as provided by Tennessee Code Annotated § 47-18-108(a)(6) and (b)(4);

I. Award the State of Tennessee such other and additional relief as the Court may determine just and proper.

Respectfully submitted,



HERBERT H. SLATTERY III, B.P.R. No. 009077
Attorney General and Reporter



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STATE OF TENNESSEE *ex rel.* HERBERT H.)
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AGREED FINAL JUDGMENT

1. Plaintiff, the State of Tennessee, by and through Herbert H. Slatery III, Attorney General and Reporter, and Defendant, DOC Disinfectant LLC, consent, subject to this Court's approval, to the entry of this Agreed Final Judgment.

2. This is a final judgment for which execution may issue.

3. Defendant waives the notice provisions under Tenn. Code Ann. § 47-18-108(a)(2) and waives any defect in connection with service of process.

4. By entering into this Agreed Final Judgment, Defendant admits no liability or fault of any kind.

5. Defendant consents to the entry of this Judgment without further notice.

6. Aside from a proceeding related to compliance with this Judgment, Defendant waives any right to add, alter, amend, petition for certiorari, or move to reargue or rehear in connection with any proceeding related to this Judgment.

7. In the event this Court shall not approve this Judgment, it shall be of no force and effect.

DEFINITIONS

8. As used in this Judgment, the following words or terms shall have the following meanings:

- A. “Consumer” means any natural person who seeks or acquires by purchase, rent, lease, assignment, award by chance, or other disposition, any goods, services, or property, tangible or intangible, real, personal or mixed, and any other article, commodity, or thing of value wherever situated or any person who purchases or to whom is offered for sale a franchise or distributorship agreement or any similar type of business opportunity.
- B. “Defendant” means DOC Disinfectant LLC and all officers, directors, owners, employees, parent companies, subsidiaries, successors, assigns, agents, and representatives to the extent they are acting on behalf of the Defendant.
- C. “Person” means a natural person, individual, governmental agency, partnership, corporation, trust, estate, incorporated or unincorporated association, and any other legal or commercial entity however organized.

JURISDICTION AND VENUE

9. The parties admit that this Court has jurisdiction over the subject matter and over the Defendants for the purpose of entering into and enforcing this Judgment. This Court retains jurisdiction for the purpose of enabling the parties to apply for such further orders and directions that may be necessary or appropriate for the construction, modification, or execution of, or compliance with, this Judgment.

10. Pursuant to Tenn. Code Ann. § 47-18-108(a)(3), venue as to all matters between the Parties relating to this Judgment shall be in the Circuit Court of Davidson County, Tennessee.

REPRESENTATIONS & WARRANTIES

11. Defendant represents and warrants the following:

- A. The signatories to this Judgment have the authority to act for and bind Defendants.

- B. Defendant is the proper party to this Judgment.
- C. Defendant is in good standing as a limited liability company with the Tennessee Secretary of State.
- D. Defendant has done business and engaged in trade or commerce in Tennessee or with Tennessee businesses

12. Defendant acknowledges that it understands the State and this Court expressly rely on all representations and warranties in this Judgment and that if any is false, deceptive, misleading, incomplete, or inaccurate, the State may move to vacate or set aside this Judgment in whole or in part, and move to hold Defendant in contempt and require that all payments pursuant to paragraph fifteen (15) become immediately due and payable.

PERMANENT INJUNCTION

13. Pursuant to Tenn. Code Ann. § 47-18-108(a)(4), as of the date of entry of this Judgment, Defendant shall be permanently and forever enjoined, restrained, and bound from:

- a. Making any deceptive or misleading claims that products or services are effective against COVID-19;
- b. Falsely representing to consumers that any product or service has United States Environmental Protection Agency approval;
- c. Falsely representing to consumers that any product or service has United States Food and Drug Administration approval;
- d. Falsely representing to consumers that any product or service has the approval of the Attorney General of any State;
- e. Falsely representing to consumers that any product or service has the approval of the Commissioner of Agriculture or Department of Agriculture of any State;
- f. Falsely representing to consumers that Defendant provides service to any persons or entities.

14. All injunctive relief as stated in paragraph thirteen (13) as applicable to Defendant's website shall be implemented within thirty (30) days from the Effective Date of this Judgment.

PAYMENT TO THE STATE

15. Defendant shall be required to pay the sum of \$5,000.00 to the Tennessee Attorney General pursuant to the written directions provided by counsel for the Attorney General for civil penalties. This sum shall be due in full no later than thirty (30) days after the date that this Judgment is entered or in accordance with written directions provided by counsel for the Attorney General.

16. If Defendant defaults on its obligations for payment to the State, the State shall have the right to collect any amounts owed through any means available under the law which may include recording this judgment as a lien against Defendant's property and seizing or levying Defendant's assets.

17. In the event of default, the State is further entitled to access any reports or other data that may aid in the collection of amounts owed to the State, which may include consumer credit reports. Defendant is ordered to provide any information necessary to permit the State's collection efforts.

GENERAL PROVISIONS

18. Acceptance and entry of this Judgment is not an approval of any of Defendant's advertising or business practices.

19. Nothing in this Judgment shall be construed to limit the authority of the State to protect the interests of the State or its citizens, or to enforce any laws, regulations, or rules against Defendant.

20. Defendant expressly waives any rights, remedies, appeals, or other interests related to a jury trial or any related or derivative rights under the Tennessee or United States Constitutions or other laws as to this Judgment.

21. This Court must approve all modifications to this Judgment.

22. If any provision of this Judgment shall be held unenforceable, the Judgment shall be construed as if such provision did not exist.

23. Nothing in this Judgment waives or affects any claims of sovereign immunity by the State.

24. Defendant will not participate in any activity to form a separate entity for the purpose of engaging in acts or practices prohibited by this Judgment or for any other purpose that would circumvent this Judgment.

25. This Judgment may be executed in counterparts that, together, will constitute one whole document.

26. This Judgment does not affect any private right of action that any consumer, person, entity, or federal, state, or local governmental entity may have against Defendant.

27. Any notices required or allowed in this Judgment shall be sent by a nationally recognized courier service, return receipt requested, to the following addresses:

A. For the State: Deputy Attorney General, Consumer Protection Division, Tennessee Attorney General's Office, P.O. Box 20207, Nashville, TN 37202-0207.

B. For the Defendant: Bartholomew J. Kempf, Bradley Arant Boult Cummings LLP, 1600 Division Street, Suite 700, Nashville, TN 37203.

28. All costs associated with this action and Judgment shall be borne by Defendant, and no costs shall be taxed to the State pursuant to Tenn. Code Ann. § 47-18-116.


29. This Judgment sets forth the entire agreement between the parties.


IT IS SO ORDERED.

CIRCUIT JUDGE

JOINTLY APPROVED AND SUBMITTED FOR ENTRY:

FOR THE STATE OF TENNESSEE:

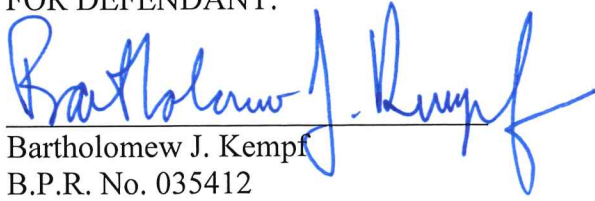

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1600 Division Street, Suite 700
Nashville, TN 37203

Attorney for Defendant, DOC Disinfectant LLC



Case Title: STATE OF TENNESSEE V DOC DISINFECTANT LLC

Case Number: 20C2438

Type: AGREED ORDER

The foregoing is hereby ORDERED, ADJUDGED
AND DECREED:

Judge Thomas Brothers, Sixth Circuit