

IN THE CIRCUIT COURT OF WASHINGTON COUNTY, ARKANSAS
CIVIL DIVISION

STATE OF ARKANSAS, *ex rel.*
LESLIE RUTLEDGE, ATTORNEY GENERAL

PLAINTIFF

v.

CASE NO. _____

ARKANSAS REGENERATIVE
MEDICAL CENTER, LTD;
SARAH KNIFE CHIEF, M.D., and
SERGE P. FRANCOIS, D.C.

DEFENDANTS

COMPLAINT

The State of Arkansas, *ex rel.* Leslie Rutledge, Attorney General (“the State”), for its Complaint against Arkansas Regenerative Medical Center, LTD, Sarah Knife Chief, M.D., Serge P. Francois, D.C. (“Defendants”), states:

I. INTRODUCTION

1. This is a consumer protection action brought to redress and restrain violations of the Arkansas Deceptive Trade Practices Act, Ark. Code Ann. § 4-88-101 through 115 (“ADTPA”).

2. The 2019 novel coronavirus (“COVID-19”) poses serious consequences to the public health, and Arkansas consumers are concerned as to how they can best protect themselves and their families. As the virus was beginning to spread in

Arkansas in early 2020, Defendants exploited Arkansans' fears and falsely told consumers that they could arm their bodies' natural defense system by strengthening their immune systems so their bodies could effectively fight back against COVID-19 and enhance their bodies' natural ability to heal itself. Arkansas consumers purchased Defendants' COVID-19-related goods and services based on Defendants' false, misleading, and deceptive statements.

3. The State seeks restitution for affected consumers, an order imposing civil penalties, costs, and other injunctive relief against Defendants.

II. PARTIES

4. Plaintiff is the State of Arkansas, *ex rel.* Leslie Rutledge, Attorney General. Attorney General Rutledge is the chief legal officer of the State. Pursuant to Ark. Code Ann. § 4-88-104 and 4-88-113, the State may seek civil enforcement of the ADTPA.

5. Defendant Arkansas Regenerative Medical Center ("ARMC") is a for-profit Arkansas corporation. Its principal place of business is 4285 North Shiloh Drive, Suite 104, Fayetteville, Arkansas 72703. ARMC's agent for service is Serge P. Francois, 2644 Ranal Place, Fayetteville, Arkansas 72703.

6. Defendant Sarah Knife Chief, M.D. ("Chief") is the medical director of ARMC and a resident of Arkansas. She holds a license to practice medicine issued by the Arkansas State Medical Board.

7. Defendant Serge P. Francois, D.C. (“Francois”) is an employee of ARMC and a resident of Arkansas. He holds a license to practice chiropractic medicine issued by the Arkansas State Chiropractic Board.

III. JURISDICTION

8. This Court has jurisdiction over this matter pursuant to Ark. Code Ann. § 4-88-104 and the common law of the State of Arkansas.

9. This Court has jurisdiction over Defendants pursuant to Ark. Code Ann. § 16-4-101. At all times relevant to this lawsuit, Defendants systematically and continuously conducted business in the State of Arkansas and availed themselves of the privilege of conducting business activities within the State of Arkansas.

10. Venue is proper pursuant to Ark. Code Ann. § 4-88-104, 4-88-112, and the common law of the State of Arkansas.

IV. FACTUAL ALLEGATIONS

11. On June 9, 2020, the Office of the Arkansas Attorney General received several reports that ARMC was using the local radio station Le Zeta, 95.7 FM, to target the Latino community in Northwest Arkansas. The reports stated that ARMC offered COVID-19 tests for \$160.00 and, if the patient tested positive, ARMC offered a “cure” for \$3,000.00.

12. At that time, ARMC’s website included a section titled “COVID-19 BREAKING NEWS,” which discussed intravenous infusion of mesenchymal stem

cells (“MSCs”)¹ on patients with COVID-19 infected pneumonia and umbilical cord stem cell infusions as a treatment for COVID-19. ARMC stated, “...infected patients may be more likely to combat and survive the related secondary issues of a COVID-19 infection if regenerative technologies² are applied.” ARMC further stated on its website, “The group of medical professionals at the Arkansas Regenerative Medical Center is well position [sic] to utilize this regenerative medicine technology to **combat COVID-19**³ and other form [sic] of viral infections.”⁴ (Emphasis added.)

13. ARMC’s medical professionals include Defendants Chief and Francois, as well as Nurse Anna Butler⁵ and Bethany Galimore, D.C.

¹ MSCs are multipotent adult stem cells that are present in most human tissues, including the umbilical cord. MSCs can self-renew by dividing and can differentiate into multiple types of tissues, including osteoblasts, chondroblasts, adipocytes, hepatocytes, and others. National Institutes of Health, *Mesenchymal Stem Cells*, <https://www.covid19treatmentguidelines.nih.gov/immune-based-therapy/blood-derived-products/mesenchymal-stem-cells/> (last visited September 22, 2020).

² Regenerative medicine is a broad field that includes tissue engineering and also incorporates research on self-healing – where the body uses its own systems, sometimes with help foreign biological material to recreate cells and rebuild tissues and organs. National Institutes of Health, *Tissue Engineering and Regenerative Medicine*, <https://www.nibib.nih.gov/science-education/science-topics/tissue-engineering-and-regenerative-medicine> (last visited September 22, 2020).

³ ARMC later claimed, “ARMC was not trying to sell a ‘cure’ or ‘treatment’ for COVID-19 or a treatment that particularly ‘**combats**’ Covid-19.” (Emphasis added). See ARMC’s “Response to AG Letter,” provided to the State from its attorney on June 18, 2020, and attached as Exhibit A.

⁴ Screenshots of the ARMC website as it appeared in June 2020 are attached as Exhibit B.

⁵ ARMC describes Nurse Butler as a specialist in family medicine, Korean hand therapy, and Qi Kung Internal Alchemy, as well as a student of functional and herbal medicine. Arkansas Regenerative Medical Center, *Providers*, <https://www.arkansasregenerativemedical.com/provider/anna-butler> (last accessed September 17, 2020).

14. The National Institute of Health’s COVID-19 Treatment Guidelines Panel recommends against the use of MSCs for the treatment of COVID-19, except in a clinical trial setting.⁶ ARMC was not conducting a clinical trial.⁷

15. No MSCs are approved by the U.S. Food and Drug Administration (“FDA”) for the treatment of COVID-19.⁸ Yet, ARMC widely advertised it could use them to “**combat COVID-19.**”

16. The potential risks related to the use of MSCs include the potential for MSCs to multiply or change into inappropriate cell types, product contamination, growth of tumors, infections, and thrombus formation.⁹

17. On April 2, 2020, ARMC publicly advertised on social media: “Arkansas Regenerative Medical Center is well positioned to utilize this regenerative medicine to **combat COVID-19.** . . .”¹⁰

18. On April 9, 2020, ARMC again advertised on social media, emphasizing that consumers should boost their immune systems to combat COVID-19:

⁶ COVID-19 Treatment Guidelines Panel. Coronavirus Disease 2019 (COVID-19) Treatment Guidelines. National Institutes of Health. Available at <https://www.covid19treatmentguidelines.nih.gov/>. Accessed September 22, 2020.

⁷ U.S. National Library of Medicine, *Find a Study*, <https://clinicaltrials.gov/ct2/home> (last visited September 22, 2020).

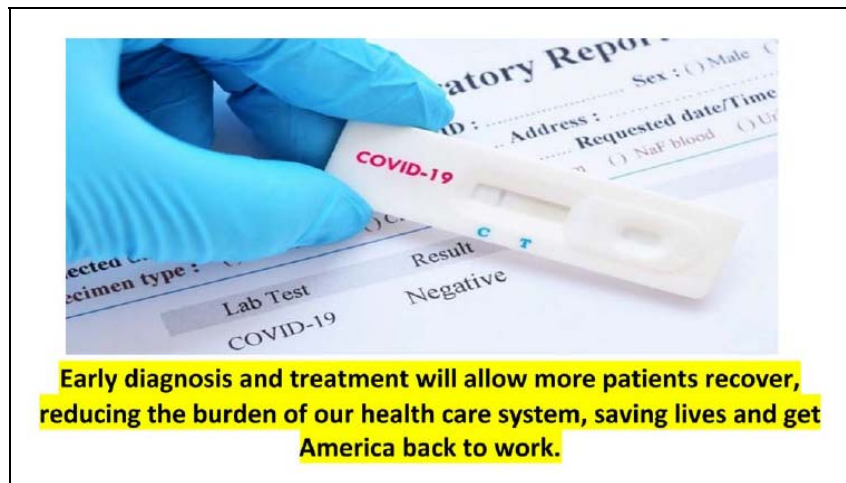
⁸ *Supra*, Note 1.

⁹ *Id.*

¹⁰ Arkansas Regenerative Medical Center, Facebook, April 2, 2020, <https://www.facebook.com/ArkansasRegenerativeMedicalCenter/> (no longer available). A copy of the Facebook post is attached as Exhibit C.

“Combat the effects of COVID-19 and other viruses and infections today. Boost and Enhance the Immune System to Combat the effects of COVID-19 and Other Viruses and Infections Today! OUR OZONE IV THERAPY IS A UNIQUE PATENTED COMPOUNDED MEDICAL OZONE FORMULATED TO BOOST YOUR IMMUNE SYSTEM TO COMBAT AGAINST THE EFFECTS OF VIRAL, BACTERIAL, PARASITE AND FUNGAL INFECTIONS.”¹¹

19. On June 8, 2020, ARMC posted on Facebook that “early diagnosis and treatment will allow more patients to recover....” The text was below an image, pictured below, of a medical test labeled “COVID-19.”¹²



20. In June 2020, Defendant Francois appeared on a La Zeta 95.7 FM remote location segment hosted by Ricardo “El Gallo” Cardenas to discuss the COVID-19 pandemic. During the show, the following conversation occurred between Defendant Francois and the host:

Cardenas: You are certified doctors?

¹¹ Arkansas Regenerative Medical Center, Facebook, April 9, 2020, <https://www.facebook.com/ArkansasRegenerativeMedicalCenter/> (no longer available).

¹² Arkansas Regenerative Medical Center, Facebook, June 8, 2020, <https://www.facebook.com/ArkansasRegenerativeMedicalCenter/> (no longer available).

Francois: We have 4 doctors here. We have orthopedic doctor, Dr. Galimore, I am Dr. Francois. We were not only doing test for coronavirus, it's not all we do. We are doing that to help the Hispanic community. There's several treatments we offer here, joint pain, back pain treatments, for people who have been in auto accidents. Lot of people have knee pain so I would also like to mention so people can understand. We have therapies we have been doing for so many years very effective for COVID: Ozone, vitamin C, B complex. There were lot of people with symptoms of COVID that is a miracle how people can recover. I'm not saying this is a cure. I'm not saying this is a cure, is not a cure but it helps the immune system so the body can fight against the virus. I repeat, it's not a cure but it has a positive effect because people who suffer the most of COVID are people with problems with their immune system. We are helping boost their immune system to stimulate their immune system and we have ways to boost that immune system in a natural way so the body can heal itself. Because the body has the power to heal through therapy of oxygen ozone, concentrate vitamin C, we have good results but is not a cure. There is not a study that shows that it's a cure, but it helps to fight the effects of COVID.”¹³

21. While on-air, Defendant Francois claimed ARMC had therapies it had been doing for so many years, such as ozone and vitamins C and B complex, that were **“very effective for COVID.”**

22. Additionally, while on-air, Defendant Francois claimed that ARMC had “good results” from oxygen ozone therapies and concentrate vitamin C and that those **therapies help “to fight the effects of COVID.”**

23. There currently are no vaccines, pills, potions, lotions, lozenges, or over-the-counter products available to treat or cure COVID-19. It is unlawful¹⁴ to

¹³ See the Affidavit of Senior Investigator Mariel Henderson-Santamaria, attached as Exhibit D.

¹⁴ Federal Trade Commission Act, 15 U.S.C. § 41 *et seq.*

advertise that a product can prevent, treat, or cure human disease without competent and reliable scientific evidence, including, when appropriate, well-controlled human clinical studies, substantiating that the claims are true at the time they are made. For COVID-19, no such study is currently known to exist for the therapies described. Thus, Defendant Francois' on-air statements are not supported by competent and reliable scientific evidence.

24. Ana Sanchez was treated at ARMC on March 10, 2020. She received ozone therapy and was charged \$3,000.00. She was also given a glutathione push, a 20-day supply of a detox balance program, tuna omega-3 oil, Catalyn GF, Diaplex, Cataplex GTF, Gymnema, MAP 1000, Ligaplex, and Boswellia Complex, which are all dietary supplements. Ms. Sanchez's final bill totaled \$3,538.83.¹⁵

25. ARMC told another Arkansas consumer that she needed to pay \$3,300.00 to buy a "COVID-19 immunity package." ARMC told her and her daughter that they had "5% positive and 95% negative virus" and that it "was best to pay cash because insurance was not going to cover the package."¹⁶

26. Ricardo Cardenas, the La Zeta radio personality who interviewed Defendant Francois, is also an employee at ARMC. He greeted patients and put them at ease, telling them that "...everything will be okay, because I know what is happening. I am the 'el Gallo de la Zeta'."¹⁷

¹⁵ A copy of Ms. Sanchez's bill is attached as Exhibit E.

¹⁶ See the Consumer Complaint filed by Alma Altamirano, attached as Exhibit F.

¹⁷ See the Consumer Complaint filed by Ana Sanchez, attached as Exhibit G.

27. ARMC states that Mr. Cardenas was hired to provide translator services, to serve as a patient advocate, and to advise ARMC regarding ARMC's social media marketing.¹⁸

28. At least five more Arkansas consumers spent \$14,384.00 on Defendants' treatments, including Ozone Oxidative Therapy, between May 29 and June 18, 2020.¹⁹

29. Ozone is a toxic gas²⁰ with no known useful medical application in specific, adjunctive, or preventive therapy."²¹

30. According to the U.S. Centers for Disease Control and Prevention ("CDC"), "[t]here are no drugs or other therapeutics presently approved by the FDA to prevent or treat COVID-19."²²

¹⁸ *Supra*, Note 3, ARMC's "Response to AG Letter."

¹⁹ See "ARMC Covid-19 Antibody tests from 5/29/2020 – 6/18/2020," provided to the State from ARMC and attached as Exhibit H.

²⁰ *List of Highly Hazardous Chemicals, Toxics and Reactives*, 29 C.F.R. § 1910.119, App. A.

²¹ *Maximum Acceptable Level of Ozone*, 21 C.F.R. § 801.415.

²² *Therapeutic Options for COVID-19 Patients*, CDC, <https://www.cdc.gov/coronavirus/2019-ncov/hcp/therapeutic-options.html> (last accessed September 2, 2020); *Beware of Fraudulent Coronavirus Tests, Vaccines and Treatments*, FDA, <https://www.fda.gov/consumers/consumer-updates/beware-fraudulentcoronavirus-tests-vaccines-and-treatments> (last accessed September 17, 2020); see also *World Health Organization Coronavirus disease (COVID-19) advice for the public: Myth busters*, World Health Organization, www.who.int/emergencies/diseases/novel-coronavirus-2019/advice-for-public/myth-busters (last accessed September 17, 2020).

V. VIOLATIONS OF LAW

31. The ADTPA sets forth the State's statutory program prohibiting deceptive and unconscionable trade practices.²³

32. The business practices of Defendants constitute the sale of "goods" or "services."²⁴

33. The same business practices constitute business, commerce, or trade.²⁵

34. It is unlawful to "knowingly make a false representation as to the characteristics, ingredients, uses, benefits, alterations, source, approval, or certification of goods or services..."²⁶ Defendants have engaged in prohibited conduct by misrepresenting:

- a. That intravenous infusion of mesenchymal stem cells is a safe and effective treatment or preventative for COVID-19; and
- b. That ozone oxidative therapy is a safe and effective treatment or preventative for COVID-19.

35. It is a violation to engage in unconscionable, false, or deceptive acts or practices in business, commerce, or trade.²⁷ Defendants have engaged in prohibited conduct by:

²³ Ark. Code Ann. §§ 4-88-101, *et seq.*

²⁴ Ark. Code Ann. § 4-88-102(4) and (7).

²⁵ Ark. Code Ann. § 4-88-107.

²⁶ Ark. Code Ann. § 4-88-107(a)(1).

²⁷ Ark. Code Ann. § 4-88-107(a)(10).

- a. Exploiting Arkansans’ fears of COVID-19 by advertising and selling methods to “combat COVID-19” that are not safe, effective, or approved by the FDA;
- b. Targeting the Latino community with radio advertisements implying ARMC could prevent or combat COVID-19 and allow employees to return to work faster; and
- c. Charging significant fees to consumers for medical “therapies” that are not safe and effective for the prevention, treatment, or cure of COVID-19.

PRAYER FOR RELIEF

36. The Attorney General may bring a civil action to seek to prevent persons from engaging in the use or employment of prohibited practices.²⁸

37. Likewise, the Attorney General may bring a civil action to seek to restore to any purchaser who has suffered any ascertainable loss by reason of the use or employment of the prohibited practices any moneys or real or personal property which may have been acquired by means of any practices declared to be unlawful, together with other damages sustained.²⁹

38. The Attorney General may seek an injunction prohibiting any person from engaging in any deceptive or unlawful practice.³⁰

²⁸ Ark. Code Ann. § 4-88-113(a)(1).

²⁹ Ark. Code Ann. § 4-88-113(a)(2)(A).

³⁰ Ark. Code Ann. §§ 4-88-104 and 4-88-113(a)(1).

39. Any person who violates the provisions of the ADTPA may be assessed a civil penalty of up to \$10,000 per violation.³¹

40. In addition, any person who violates the provisions of the ADTPA shall be liable to the Office of the Attorney General for all costs and fees, including but not limited to, expert witness fees and attorney's fees, incurred by the Office of the Attorney General in the prosecution of such actions.³²

41. A "person" is an individual, organization, group, association, partnership, corporation, or any combination thereof.³³

42. Defendants ARMC, Chief, and Francois are each a "person" who has engaged in an unconscionable, false, or deceptive act or practice in business, commerce, or trade.

43. Defendants are jointly and severally for any penalties assessed and any monetary judgments awarded.³⁴

44. The State will exercise its right to a trial by jury.

WHEREFORE, the above premises considered, the State of Arkansas, *ex rel.* Leslie Rutledge, Attorney General, respectfully requests that this Court:

- a. Issue such orders, pursuant to Ark. Code Ann. §§ 4-88-104 and 4-88-113(a)(1), as may be necessary to prevent the use or employment by

³¹ Ark. Code Ann. § 4-88-113(a)(3).

³² Ark. Code Ann. § 4-88-113(e).

³³ Ark. Code Ann. § 4-88-102(5).


³⁴ Ark. Code Ann. § 4-88-113(d)(1).

the Defendants of the practices described herein which are violations of the ADTPA;

- b. Issue an order, pursuant to Ark. Code Ann. § 4-88-113(a)(2)(A), requiring Defendants to pay consumer restitution to those Arkansas consumers affected by the activities outlined herein; in addition, or in the alternative, enter an order requiring Defendants to remit to affected consumers all sums obtained from Arkansas consumers by methods prohibited by Arkansas law;
- c. Issue an order requiring Defendants to discontinue any further efforts to collect money from those consumers, withdraw any consumer accounts that have been referred to a collection agency, and remove any negative credit information from the consumers' credit record;
- d. Impose civil penalties pursuant to Ark. Code Ann. § 4-88-113(b), to be paid to the State by the Defendants in the amount of \$10,000.00 per each violation of the ADTPA proved at a trial of this matter, the full amount of which will exceed the amount necessary to establish federal diversity jurisdiction;
- e. Issue an order, pursuant to Ark. Code Ann. § 4-88-113(e), requiring Defendants to pay the State's costs in this investigation and litigation, including, but not limited to, attorneys' fees and costs; and
- f. For all other just and proper relief to which the State may be entitled.

Respectfully submitted,

LESLIE RUTLEDGE
ATTORNEY GENERAL

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