

**IN THE CIRCUIT COURT OF WASHINGTON COUNTY, ARKANSAS
FIRST DIVISION**

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

PLAINTIFF

v. CASE NO. 72CV-22-2265

**DAVID TYLER d/b/a TYLER POOLS &
CONSTRUCTION**

DEFENDANT

**MOTION FOR A TEMPORARY RESTRAINING ORDER,
PRELIMINARY INJUNCTION, AND
FOR OTHER RELIEF**

The State of Arkansas, *ex rel.* Leslie Rutledge, Attorney General (“the State”), for its Motion for Temporary Restraining Order, Preliminary Injunction and for Other Relief, states:

1. This action is brought pursuant to the Arkansas Deceptive Trade Practices Act (“ADTPA”), Ark. Code Ann. § 4-88-101 *et seq.* Defendant has engaged in conduct in violation of the ADTPA.

2. This Motion was filed simultaneously with the Brief in Support of Motion for Temporary Restraining Order, Preliminary Injunction and For Other Relief (“BIS”) and the Complaint in this matter. The BIS and the Complaint are incorporated by reference herein.

3. As alleged in the Complaint, Defendant owns and operates a pool and construction business entity known as and doing business under the name of “Tyler

Pools Construction.” Defendant advertises that he can construct pools for Arkansas consumers, usually luring consumers in with relatively low prices and promises to get the job done quickly. Defendant usually requires a significant down payment from the consumers that he contracts with, fails to complete the pool construction job, and fails to provide consumers with refunds.

4. Furthermore, Defendant has failed to obtain proper contractor licenses and permits. In fact, the Arkansas Contractors Licensing Board ruled that Defendant should “refrain from bidding on or performing work as a residential contractor prior to being licensed with the Residential Contractors Committee.”

5. The Attorney General has reason to believe that Defendant has disregarded the rulings of the Arkansas Contractors Licensing Board, continues to advertise his business, and continues to enter into contracts with other consumers.

6. The Attorney General has reason to believe that Defendant misappropriates money that consumers paid him to build a pool for his personal purposes.

7. The Attorney General has reason to believe that when consumers attempted to receive updates concerning their pool’s completion or attempted to obtain refunds, Defendant may have lodged terroristic threats against the consumer, forcing some consumers to file police reports.

8. For the protection of Arkansas consumers, the Attorney General seeks a preliminary injunction prohibiting Defendant from advertising his business, bidding on or performing work as a residential contractor, entering into contracts for

the construction of pools, accepting money as down payments for pools, and failing to complete pool construction projects in a timely manner.

9. Pursuant to Ark. Code Ann. §4-88-104, the Attorney General is specifically authorized to seek “an injunction prohibiting any person from engaging in any deceptive or unlawful practice prohibited by [the ADTPA].”

10. In order to obtain an injunction prior to the final disposition of a matter the Attorney General must show (1) that evidence of an ADTPA violation exists and (2) that an injunction is in the public interest. *Mercury Marketing Technologies of Delaware, Inc. v. State of Arkansas ex rel. Mike Beebe, Attorney General*, 358 Ark. 319, 328, 189 S.W.3d 414, 420 (Ark. 2004).

11. Evidence of ADTPA violations exists that Defendant’s conduct was unconscionable, in violation of the ADTPA. *Id.*

12. It is in the public interest to order injunctive relief to protect Arkansas consumers. *Id.*

13. The Attorney General has not contacted Defendant regarding this Motion. The Attorney General is attempting to confirm the Defendant’s address in order to obtain personal service upon them with the Summons, Complaint, and this Motion.

14. However, a Temporary Restraining Order should be issued without notice to Defendants because of the emergent circumstances that exists. Without an immediate order, Defendant will continue to operate his business premised on fraudulent documents, broken promises, and veiled threats to consumers.

15. In the alternative, the Attorney General requests this Court to schedule an expedited hearing for a Preliminary Injunction. Due to the emergent circumstances of irreparable harm to consumers, the hearing should be set for the earliest possible time.

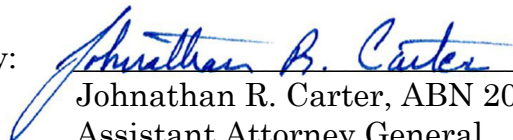
16. The Attorney General requests that Defendant pays the State's attorneys' fees and costs in this matter.

WHEREFORE, the Attorney General requests that its Motion be granted; that the Attorney General be awarded its costs and attorneys' fees incurred herein, and for all other just and proper relief to which it may be entitled.

Respectfully submitted,

LESLIE RUTLEDGE
ATTORNEY GENERAL

By:



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