

FILED
09-26-2022
CIRCUIT COURT
DANE COUNTY, WI
2022CX000014

STATE OF WISCONSIN CIRCUIT COURT DANE COUNTY

STATE OF WISCONSIN,
17 W. Main Street
Post Office Box 7857
Madison, Wisconsin 53707-7857

Plaintiff,

v.

Case No. 2022-CX-_____
Complex Forfeiture: 30109

CENTURION FILING
SERVICES, LLC, d/b/a
WI Certificate Service
412 E. Madison St., Ste. 817
Tampa, FL 33602

DEAN G. MARSHLACK
412 E. Madison St., Ste. 817
Tampa, FL 33602

BRIAN CAPOBIANCO
412 E. Madison St., Ste. 817
Tampa, FL 33602

DAVID MARSHLACK
412 E. Madison St., Ste. 817
Tampa, FL 33602

Defendants.

SUMMONS

THE STATE OF WISCONSIN

To each entity and individual named above as a defendant:

You are hereby notified that the plaintiff named above has filed a lawsuit or other legal action against you. The complaint, which is attached, states the nature and basis of the legal action.

Within twenty (20) days of receiving this summons, you must respond with a written answer, as that term is used in Wis. Stat. ch. 802, to the complaint. The court may reject or disregard an answer that does not follow the requirements of the statutes. The answer must be sent or delivered to the court, whose address is Dane County Circuit Court, Dane County Courthouse, 215 S. Hamilton Street, Madison, WI 53703, and to Colin R. Stroud, Assistant Attorney General, plaintiff's attorney, whose address is Wisconsin Department of Justice, Post Office Box 7857, Madison, Wisconsin 53707-7857. You may have an attorney help or represent you.

If you do not provide a proper answer within twenty (20) days, the court may grant judgment against you for the award of money or other legal action requested in the complaint, and you may lose your right to object to anything that is or may be incorrect in the complaint. A judgment may be enforced as provided by law. A judgment awarding money may become a lien against any real estate you own now or in the future and may also be enforced by garnishment or seizure of property.

Dated this 26th day of September, 2022.

JOSHUA L. KAUL
Attorney General of Wisconsin

Electronically signed by:

s/Colin R. Stroud
COLIN R. STROUD
Assistant Attorney General
State Bar #: 1119457

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Defendants.

COMPLAINT

The State of Wisconsin, by its attorneys, Wisconsin Attorney General Joshua L. Kaul, and Assistant Attorney General Colin R. Stroud, brings this civil enforcement action against the Defendants named above and alleges as follows:

IF YOU REQUIRE THE ASSISTANCE OF AUXILIARY AIDS OR SERVICES BECAUSE OF A DISABILITY, CALL (608) 266-4678 (TTY -- (608) 266-4625) AND ASK FOR THE DANE COUNTY CIRCUIT COURT ADA COORDINATOR.

PARTIES

1. The Plaintiff, the State of Wisconsin, has its principal offices at the State Capitol in Madison, Wisconsin. The address of the Wisconsin Department of Justice is 17 West Main Street, Post Office Box 7857, Madison, Wisconsin 53707-7857. The Wisconsin Department of Justice brings this action in the name of the State at the request of the Department of Agriculture, Trade and Consumer Protection (DATCP).

2. Defendant Centurion Filing Services, LLC, d/b/a “WI Certificate Service” (“Centurion”) is a limited liability company organized under the laws of Florida. Centurion is registered as a foreign LLC with the Wisconsin Department of Financial Institutions. Centurion’s principal place of business is located at 412 E. Madison St., Suite 817, Tampa, FL 33602. Centurion’s registered agent for service of process in Wisconsin is Registered Agents, Inc., 2800 E. Enterprise Ave., Ste. 333, Appleton, WI 54913.

3. Defendant Dean Marshlack is a natural person and, upon information and belief, is a resident of the state of Florida. Dean Marshlack is a member, manager, officer, and/or director of Centurion.

4. Defendant Brian Capobianco is a natural person and, upon information and belief, is a resident of the state of Florida. Brian Capobianco is a member, manager, officer, and/or director of Centurion.

5. Defendant David Marshlack is a natural person and, upon information and belief, is a resident of the state of Florida. David Marshlack is a member, manager, officer, and/or director of Centurion.

6. Upon information and belief, at all times relevant to this Complaint, Defendants Dean Marshlack, Brian Capobianco, and David Marshlack directed and/or had knowledge of, and the ability to control, the marketing activities of Defendant Centurion alleged by the State to violate Wisconsin law, as described herein.

JURISDICTION AND VENUE

7. This action is brought pursuant to Wis. Stat. §§ 100.18(11)(d), 100.26, and 100.313(7) to recover pecuniary losses suffered by Wisconsin consumers and to enforce, restrain, and punish violations of Wis. Stat. §§ 100.18 and 100.313.

8. Venue is proper in Dane County as it is a county where at least one of the claims arose. Wis. Stat. § 801.50(2)(a). Alternatively, venue in Dane County is proper under Wis. Stat. § 801.50(2)(d) as the county designated by the Plaintiff.

RELEVANT PROVISIONS OF WISCONSIN CONSUMER PROTECTION LAW

9. Wisconsin Stat. § 100.313 governs persons and businesses that solicit fees for the provision of records maintained by Wisconsin state agencies.

10. The statute defines soliciting broadly to mean “to directly advertise or market through writing or graphics and via mail . . . to an individually identified person, residence, or business location.” Wis. Stat. § 100.313(1)(c).

11. Under Wis. Stat. § 100.313(2), any business or individual soliciting a fee for providing a copy of a record maintained by a state agency must include the following at the top of the solicitation document in at least 24-point type:

- a. That the solicitation is not from a state agency or local unit of government;
- b. That no action is legally required by the person being solicited;
- c. The fee for, or the cost of, obtaining a copy of the record from the state agency or local unit of government that has custody of the record;
- d. The information necessary to contact the state agency or local unit of government that has custody of the record; and
- e. The name and physical address of the business or individual soliciting the fee

12. Wisconsin Stat. § 100.313(4) prohibits the use of a solicitation document that is in a form or uses deadline dates or other language that makes the document appear to be a document issued by a state agency or that appears to impose a legal duty on the person being solicited.

13. Under Wis. Stat. § 100.313(5), a business or individual soliciting a fee for providing a copy of a record may not charge a fee of more than four (4) times the amount charged by the state agency that has custody of the record.

14. Wisconsin Stat. § 100.18 generally prohibits untrue, deceptive, or misleading representations in advertising and marketing.

15. Under Wis. Stat. § 100.18(10r), it is unlawful for a person conducting business in a community or region from outside that community or region to use the name of the community or region, or other description of the community or region, in the corporate or trade name of the business or in any other information that is

published if the use of the name or description of the location creates the misrepresentation that the business is located in the community or region.

FACTS

16. Through the use of illegal direct mailings, Centurion has solicited exorbitant fees from Wisconsin businesses to procure a Certificate of Status from the Wisconsin Department of Financial Institutions (DFI).

17. Since at least November 2020 and up until at least July 2022, Centurion has caused more than 65,000 solicitation mailers (“the Mailers”) to be sent to newly-formed Wisconsin business entities.

18. The layout, design, and content of the Mailers, combined with the fact that Centurion sends the Mailers to newly-registered businesses, is likely to create the impression that the Mailers represent an invoice or solicitation from a Wisconsin state agency to acquire a Certificate of Status.

19. Attached to this Complaint as Exhibit 1 and incorporated herein by reference are three representative mailers that Centurion caused to be sent to individually-identified Wisconsin businesses. The mailers comprising Exhibit 1 are representative of the Mailers that Centurion caused to be sent to other individually-identified Wisconsin businesses.

20. A Certificate of Status is a record created and/or kept by DFI for every business entity registered in Wisconsin, which contains the name, effective date of incorporation, organization, or qualification, and its current status, and identifies the entity as either a domestic or foreign entity.

21. A Certificate of Status is a “record” as that term is used in Wis. Stat. § 100.313(1)(b).

22. DFI is a state agency as that term is used in Wis. Stat. § 100.313(1)(d).

23. The Mailers solicited, and Centurion charged, a fee of \$72.50 from the recipient to obtain a Certificate of Status for the recipient business.

24. During the timeframe relevant to this Complaint, DFI charged \$10 for a Certificate of Status.

25. Neither the identity (Centurion) nor the location (Florida) of the business soliciting the fee appears anywhere on the Mailers.

26. Instead, Centurion published the name “WI Certificate Service” or “Wisconsin Certificate Service” on the Mailers and provided an address in Madison, Wisconsin. By listing an address in Madison, Wisconsin, and using the name “Wisconsin” and/or “WI” in the Mailers, Centurion created the false impression that the entity sending the Mailers operated from within Wisconsin.

27. Centurion does not maintain any physical business operations in Wisconsin or otherwise have employees in Wisconsin. The Madison address listed on the Mailers is the address of a UPS store where Centurion purchased a mailbox and mail forwarding service.

28. The Mailers Centurion caused to be sent to Wisconsin use features and formatting that make the Mailers appear to be a document issued by a state agency or appear to impose a legal duty on the recipient. The following are some, but not all, examples of these features and formatting.

29. First, the trade name “WI Certificate Service” is suggestive of a specific unit or office within a state agency charged with providing government records. Nowhere on the Mailers does the name Centurion appear. While the Mailers state that WI Certificate Service is not associated with any government or state agency, this disclosure is made in fine print and placed in an inconspicuous location within the Mailers, making it unlikely that recipients will read and understand the disclosure.

30. Second, Centurion caused the Mailers to be sent to Wisconsin businesses shortly after those businesses first registered with DFI. The timing of sending the Mailers creates the impression that the Mailers are sent by a state agency in connection with the registration process.

31. Third, the Mailers contain a large, boldfaced header, prominently placed on the Mailer, stating “PLEASE RESPOND BY:” and a date two weeks from the date of the solicitation. This deadline date creates the false impression that there is an obligation to respond to the Mailer within a short period of time.

32. Fourth, the Mailers state the following: “Congratulations on registering your business with the State of Wisconsin. Your articles have been filed with the secretary of state and are complete. You have one step left in order to buy your optional Certificate of Status from Wisconsin Certificate Service.” This statement creates the impression that the mailer was generated by a state agency as part of the business registration process and that the mailer issues from a state agency.

33. Fifth, the Mailers are labeled “Certificate of Status Request Form” and, at the bottom of the document, contain a form identification number “FORM WICS-

CE 10.883(1).” Moreover, the Mailers contain a series of rectangular boxes, bar codes, and references to different codes and numbers, including the business recipient’s unique DFI “Entity ID” number. Together these features create the impression that the mailer represents a standardized form of the type that state agencies routinely use to conduct government business.

34. The Mailers did not state, at the top of the solicitation document in at least 24-point type, any of the following information:

- a. That the solicitation is not from a state agency or local unit of government;
- b. That no action is legally required by the person being solicited;
- c. The fee for, or the cost of, obtaining a copy of the record (Certificate of Status) from DFI;
- d. The information necessary to contact DFI, which has custody of the record (Certificate of Status); or
- e. The name and physical address of the business or individual soliciting the fee.

35. After receiving the Mailers, several individuals filed complaints with DATCP about the deceptive nature of the Mailers.

36. As a result of receiving the Mailers, at least 6,100 Wisconsin businesses, including businesses with addresses in Dane County, paid Centurion \$72.50 for a Certificate of Status.

37. The exact number of Mailers that Centurion caused to be sent to Wisconsin businesses, and the exact timeframe during which those Mailers were sent to Wisconsin, is known to Centurion but not to the State.

38. The exact number of Wisconsin businesses that paid fees to Centurion for a Certificate of Status, and the amount of fees those businesses paid, is known to Centurion but not to the State.

39. The Mailers were addressed to individually-identified businesses, including businesses with addresses in Dane County.

PERSONAL RESPONSIBILITY OF INDIVIDUAL DEFENDANTS

40. Upon information and belief, Defendants Dean Marshlack, Brian Capobianco, and David Marshlack (the “Individual Defendants”) are co-owners of Centurion.

41. Centurion identified the Individual Defendants as the sole members, managers, officers and/or directors of Centurion.

42. The Individual Defendants were each responsible for creating the Mailers.

43. The Individual Defendants were each responsible for approving the design and written contents of the Mailers.

44. The Individual Defendants were each responsible for acquiring the names and addresses of businesses in Wisconsin to which the Mailers would be sent.

45. The Individual Defendants directed and/or had knowledge of, and the ability to control, Centurion's practice of sending the Mailers to Wisconsin businesses and collecting fees for procuring Certificates of Status.

CLAIM ONE

(Against All Defendants) Violations of Wis. Stat. § 100.313

46. The State re-alleges all preceding paragraphs and incorporates them herein by reference.

47. The Defendants' business involves soliciting a fee for the provision of records created and/or kept by the Wisconsin Department of Financial Institutions.

48. The Mailers the Defendants caused to be sent to individually-identified Wisconsin businesses are solicitations under Wis. Stat. § 100.313.

49. The Mailers did not state at the top of each document in at least 24-point type any of the information required under Wis. Stat. § 100.313(2).

50. The Mailers were in a form and/or used deadline dates or other language that made the Mailers appear to be a document issued by a state agency and/or appear to impose a legal duty on the person being solicited.

51. The Defendants charged recipients of the Mailers \$72.50 for the provision of a Certificate of Status, which is more than four (4) times the amount DFI charges to provide the same record.

52. As a result of the Defendants' violation of Wis. Stat. § 100.313, recipients of the Mailers paid money to the Defendants.

53. Each Mailer the Defendants caused to be sent to an individually-identified Wisconsin business in violation of Wis. Stat. § 100.313 is subject to a separate forfeiture under Wis. Stat. § 100.313(7).

CLAIM TWO

(Against all Defendants)

Misrepresentation of Location in Violation of Wis. Stat. § 100.18(10r)

54. The State re-alleges all preceding paragraphs and incorporates them herein by reference.

55. The Defendants caused the Mailers to be sent to individually-identified businesses in Wisconsin for the purpose of collecting payments from those businesses for the provision of a Certificate of Status.

56. The Mailers failed to identify Defendant Centurion and instead used the trade name “WI Certificate Service” or “Wisconsin Certificate Service.”

57. The Mailers did not refer to any business address in Florida and instead referred to a business address in Madison, Wisconsin.

58. The Defendants do not maintain any business operations in Wisconsin and do not have any employees located in Wisconsin.

59. The Mailers create the misrepresentation that the Defendants’ business is located in Wisconsin when in fact the business is located in Florida.

60. As a result of receiving the deceptive and misleading Mailers, Wisconsin businesses made payments to the Defendants for the provision of Certificates of Status.

61. Each Mailer the Defendants caused to be sent to an individually-identified Wisconsin business constitutes a separate violation of Wis. Stat. § 100.18(10r).

RELIEF REQUESTED

WHEREFORE, Plaintiff, State of Wisconsin, requests this Court enter judgment against Defendants, as follows:

A. Finding that Defendants violated Wis. Stat. §§ 100.18(10r) and 100.313 as alleged herein;

B. Ordering Defendants to pay refunds and/or restitution of pecuniary losses suffered because of the acts or practices involved in this case, pursuant to Wis. Stat. §§ 100.18(11)(d) and 100.313(7);

C. Permanently enjoining Defendants, pursuant to Wis. Stats. §§ 100.18(11)(d) and 813.01 from further violations of Wis. Stat. §§ 100.18 and 100.313;

C. Imposing civil forfeitures against Defendants pursuant to Wis. Stat. §§ 100.26(4m) and 100.313(7), and related mandatory surcharges and assessments;

E. Awarding DATCP and the Department of Justice the expenses incurred in their investigation and prosecution of this matter, including reasonable attorney fees, pursuant to Wis. Stat. §§ 93.20(2), 100.263, and 814.04; and

F. Awarding all other relief as the court may deem just and equitable.

Dated this 26th day of September, 2022

Respectfully submitted,

JOSHUA L. KAUL
Attorney General of Wisconsin

Electronically signed by:

S/Colin R. Stroud
COLIN R. STROUD
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