

**IN THE CIRCUIT COURT OF PULASKI COUNTY, ARKANSAS**  
**\_\_\_\_\_DIVISION**

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

**PLAINTIFF**

**v.                                      CASE NO. \_\_\_\_\_**

**ARKANSAS FUNERAL CARE, LLC d/b/a**  
**ARKANSAS FUNERAL CARE &**  
**CREMATORY, LEROY WOOD, ROD**  
**WOOD, and JOHN/JANE DOES 1-20 AS**  
**OWNERS AND/OR MANAGERS OF**  
**ARKANSAS FUNERAL CARE AND**  
**CREMATORY**

**DEFENDANTS**

**COMPLAINT**

The State of Arkansas, *ex rel.* Leslie Rutledge, Attorney General (“the State”), for its Complaint against Arkansas Funeral Care, LLC doing business as Arkansas Funeral Care & Crematory, LeRoy Wood, Rod Wood, and John/Jane Does 1-20 (referred to collectively as “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—115 (“ADTPA”).

2.     Arkansas Funeral Care, LLC (“AFC”), and its owners and managers, LeRoy Wood, Rod Wood, and John/Jane Does 1–20, individually and through the operation of AFC, have deceived and harmed numerous Arkansas consumers.

3. Defendants were in the business of providing various funeral-care services. These services were to be executed in a timely, professional, and respectful manner. Defendants failed to provide the expected services in a timely manner, and, in some cases, did not perform the services at all.

4. The State seeks an order imposing civil penalties, restitution for affected consumers, attorneys' fees, costs, and other relief against Defendants.

## II. PARTIES

5. 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.

6. Defendant AFC is an Arkansas company whose principal place of business was 2620 West Main Street, Jacksonville, Arkansas 72076. Its registered agent for service of process is LeRoy Wood at 2620 West Main Street, Jacksonville, Arkansas 72076. The corporate entity of AFC is currently in existence; however, AFC is no longer conducting business at this address.

7. Defendant LeRoy Wood is an owner, operator, and manager of AFC. He is a resident of Pulaski County, Arkansas and is the registered agent for AFC. His address for service of process is 2620 West Main Street, Jacksonville, Arkansas 72076.

8. Rod Wood is an individual residing in Pulaski County, Arkansas. He is an owner, operator, and manager of AFC. His business address is 2620 West Main Street, Jacksonville, Arkansas 72076.

9. The true names and capacities of fictitious defendants, John/Jane Does 1–20, are unknown to Plaintiff at this time. Plaintiff is informed and believes and, therefore, alleges that these individuals are responsible in some capacity for the acts alleged in this complaint.

10. LeRoy Wood, Rod Wood, and John/Jane Does 1-20 are each liable for the actions of AFC. Pursuant to Ark. Code Ann. § 4-88-113(d)(1):

Every person who directly or indirectly controls another person who is in violation of or liable under this chapter and every partner, officer, or director of another person who is in violation of or liable under this chapter shall be jointly and severally liable for any penalties assessed and any monetary judgments awarded in any proceeding for civil enforcement of the provisions of this chapter, provided that the persons to be held jointly and severally liable knew or reasonably should have known of the existence of the facts by reason of which the violation or liability exists.

### **III. JURISDICTION**

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

12. This Court has jurisdiction over Defendants pursuant to Arkansas Code Ann. § 16-60-112 in that the violations alleged took place in Pulaski County, Arkansas.

13. Every person subject to liability under Ark. Code Ann. § 4-88-113(d)(1) shall be deemed, as a matter of law, to have purposefully availed himself or herself

of the privileges of conducting activities within Arkansas sufficient to subject the person to the personal jurisdiction of the circuit court hearing an action brought pursuant to this chapter.

14. 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**

15. AFC provided funeral-related goods and services to Arkansas consumers, including but not limited to, funeral counseling, recording vital statistics, securing permits, filing and obtaining death certificates and other forms and claims, preparation of necessary notices-of-death, coordination and sales of service plans, embalming, coordination and implementation of open-casket services, providing special care of autopsied remains, hairstyling and cosmetology services for decedents, and coordination of visitation and viewing, cremation, casket sales or rentals, outer-burial containers, and cremation urns.

16. On its website, AFC advertised its services and made claims regarding its facilities. Marketing statements on the website include:

- a. “Our [burial] packages provide you with a selection of goods and services without any substitution or deletion.”
- b. “The care and removal of the deceased to our office from a local residence, health care facility or airport.”
- c. “Arkansas Funeral Care is also honored to be the exclusive funeral and cremation service provider for Veteran’s Funeral Care for all of Central Arkansas.”
- d. “Our Veterans [sic] Burial and Cremation plans honor those who have given their lives to protect our nation.”

- e. “[O]ur professional staff will arrange military honors for a dignified and honorable military service with affordable prices. Family, friends and a grateful nation will have an opportunity to give a final salute to our fallen heroes.”

17. Arkansas consumers entered into written contracts for chosen funeral goods and services with AFC based on these representations on their website as well as other oral representations made during the sales process. The contracts detailed the costs of the funeral goods and services to be rendered at the time of need.

18. Arkansas consumers have filed complaints with the Consumer Protection Division of the Attorney General’s Office regarding the following:

- a. Failure to provide cremation services;
- b. Nauseating odor of bodies that were left unrefrigerated without being embalmed;
- c. Failure to provide adequate staff to transport bodies; and
- d. Untimely receipt of death certificates.

19. Defendants, AFC and LeRoy Wood, held licenses from the Arkansas Embalmers and Funeral Directors Board (“the Board”). As licensees, these defendants are subject to certain Board regulations due to noncompliance with said regulations.<sup>1</sup>

20. Some of the facts alleged in this complaint were discovered because of Board inspections and complaints submitted to the Board. Complaints to the Board include:

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<sup>1</sup> The Ark. Code Ann. § 17-29-201, *et seq.* sets forth the State’s regulatory framework governing embalmers, funeral directors, and funeral establishments.

- a. Bodies not being refrigerated;
- b. Untimely embalmed and decomposing bodies;
- c. The smell of embalming fluid during services;
- d. Visible body fluids during viewing; and
- e. Receipt of cremated remains in a sealed cardboard box instead of an urn.

21. The Board Inspector conducted the scheduled inspection of Defendants' facility on January 12, 2015 and returned to the location on January 13, 14, 15, and 16, 2015.

22. During these visits, the inspector found multiple and continuing violations of the Board's regulations:

- a. Blood and other bodily fluids on the floors and walls;
- b. Unlocked and unsecured doors;
- b. Improper storage of bodies, including:
  - (1) Coolers filled beyond capacity;
  - (2) Bodies stacked on top of each other;
  - (3) Unembalmed bodies located outside of appropriate storage;
  - (4) Bodies left on wooden pallets;
  - (5) A decomposing body strapped to a cot;
  - (6) Deteriorating flooring in crematory; and
  - (7) Portions of flooring and human ashes stored in a barrel.

23. The Pulaski County Coroner and the Arkansas State Crime Lab removed thirty-one bodies from Defendants' facility.

24. One consumer reported that he contracted with AFC to perform his mother's cremation. Nine days after the agreement was reached, the cremation had not been performed, and he had to find another location to assist with the remains.

25. Consumers have reported difficulties in timely receiving death certificates. AFC advised at least one consumer that the death certificate had been lost.

26. Due to delays in embalming that caused extreme levels of decomposition to the bodies, some consumers have reported the inability to hold open-casket services. In particular, one consumer was denied a request to view the body, being told by AFC that her loved one "looks like a monster, and he is completely green," and "if you view the body, you will have nightmares." Members of the family were told that his body had been left on a slab.

27. Consumers have reported bodily fluids seeping from their loved ones' remains and saturating the inside of the casket during visitation. On one occasion, a consumer observed bodily fluids oozing from the deceased relative's ear during the open-casket viewing.

28. Consumers are afraid and distraught that they do not have the actual remains of their own loved ones due to the conditions at AFC. One consumer reported that when she arrived at AFC and asked to see her mother, the wrong body was presented to her. Only after insisting that the remains presented to her

were not her mother's, she learned AFC had not yet transported her mother's body from the hospital.

29. Consumers have raised additional concerns regarding AFC's failure to provide services. Consumers reported that AFC did not provide adequate staff for pick up and transportation of bodies. Consumers also reported that services were not of the quality promised, such as preparation of memorial booklets.

30. One consumer reported that the cremation of her husband, a veteran, was delayed over three weeks and was, therefore, not available for his memorial service.

31. All these conditions occurred at the AFC location at 2620 West Main Street, Jacksonville, Arkansas. Arkansas consumers have been financially and emotionally harmed by the unconscionable business practices of these defendants.

## **V. VIOLATIONS OF LAW**

32. The ADTPA sets forth the State's statutory framework governing deceptive and unconscionable trade practices.

33. The business practices of the Defendants related to funeral services and funeral merchandise constitute the sale of "goods or "services" within the meaning of Ark. Code Ann. § 4-88-102(4) and (7). The same business practices constitute business, commerce, or trade within the meaning of Ark. Code Ann. § 4-88-107.

34. Pursuant to Ark. Code Ann. § 4-88-107(a)(10), it is unlawful for any person to engage in "unconscionable, false, or deceptive act[s] or practice[s] in business, commerce, or trade." The Defendants have engaged in prohibited conduct



by marketing and selling funeral goods and services while accepting more business than the funeral home could appropriately handle, in that the Defendants' coolers were filled beyond capacity. Bodies received were stacked on top of each other or on wooden pallets in non-temperature controlled areas while awaiting burial or cremation. Some decedents had obvious signs of decomposition.

35. Under Ark. Code Ann. § 4-88-107(a)(1), it is a violation of the ADTPA to knowingly make "a false representation as to the characteristics...uses...[or] benefits...of goods and services." AFC has engaged in prohibited conduct by knowingly making representations on its website, promising the very best funeral care, impeccable service, and everything needed to celebrate the life of a loved one in a dignified and honorable way at affordable prices. In reality, AFC failed to maintain sanitary conditions in the embalming prep room, failed to provide death certificates as per the contract, and failed to properly handle and prepare bodies that were in its custody, care, and control. Further, in most instances, the Defendants did not have the capacity or any reasonable expectation that they would be able to fulfill their contractual and ethical obligations to the families. In both web marketing and oral representations, AFC represented a quality of services that it knew it could not provide.

36. Pursuant to Ark. Code Ann. § 4-88-108, the use of deception, fraud, false pretense, or otherwise concealing, suppressing, or omitting any material fact in connection with the sale or advertisement of any goods or services is unlawful. AFC omitted material information regarding critical problems with services from its

website as well as oral statements made by its representatives, thereby concealing the fact that it could not timely provide embalming services, crematory services, ashes of loved ones, and death certificates. AFC failed to tell consumers material information concerning time delays and staffing constraints when selling funeral services to consumers. It failed to tell consumers that, because of its method and staffing levels, there would be bodily fluids excreted during visitations. AFC failed to tell consumers that there could be decomposing and rotting flesh that would turn some body parts black. AFC failed to inform consumers that there could be overwhelming stench at the time of seeing a deceased loved one for the last time. AFC failed to tell consumers that family members would have to assist in lifting and carrying the remains of their loved ones as part of the transportation process. AFC failed to tell consumers that the remains of their loved ones would be left unattended for days or that there would be a complete lack of dignity in the handling of the funeral services.

## **VI. PRAYER FOR RELIEF**

37. Pursuant to Ark. Code Ann. § 4-88-113(a), the Attorney General may bring a civil action seeking to prevent persons from engaging in the use or employment of any prohibited practices. Under the provisions of Ark. Code Ann. §§ 4-88-104 and 4-88-113(a)(1), the Attorney General may seek an injunction prohibiting any person from engaging in any deceptive or unlawful practice.

38. Pursuant to Ark. Code Ann. § 4-88-113(a)(2), the Attorney General may seek to restore any purchaser who has suffered any ascertainable loss by reasons of the use or employment of the prohibited practices any moneys or real property

which may have been acquired by means of any practice declared to be unlawful by this chapter, together with other damages sustained.

39. Pursuant to Ark. Code Ann. § 4-88-113(a)(3), any person who violates the provisions of the ADTPA may be assessed a civil penalty of up to \$10,000.00 per violation.

40. Pursuant to Ark. Code Ann. § 4-88-113(b), the Attorney General may petition the Court to order the suspension or forfeiture of franchises, corporate charters, or other licenses or permits or authorization to do business in this state.

41. Likewise, under the provisions of Ark. Code Ann. § 4-88-113(e), 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 attorneys' fees incurred by the Office of the Attorney General in the prosecution of such actions.

42. Pursuant to Ark. Code Ann. § 4-88-113(d)(1), "[e]very person who directly or indirectly controls another person who is in violation of or liable under" the ADTPA and every partner, officer, or director of another person who is liable thereunder "shall be jointly and severally liable for any penalties assessed and any monetary judgments awarded in any proceeding for civil enforcement of the provisions of" the ADTPA, "provided that the persons to be held jointly and severally liable knew or reasonably should have known of the existence of the facts by reason of which the violation or liability exists."

43. A “person” is an individual, organization, group, association, partnership, corporation, or any combination thereof. Ark. Code Ann. § 4-88-102(5)

44. The Defendants are “persons” who have engaged in unconscionable, false, or deceptive acts or practices in business, commerce, or trade, as alleged herein.

45. The State demands a trial by jury.

46. The State reserves the right to amend its Complaint or plead further.

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

- a. Issue an injunction, pursuant to Ark. Code Ann. § 4-88-104 and 4-88-113(a)(1), preventing Defendants from engaging in any deceptive acts or practices;
- b. Issue an order, pursuant to Ark. Code Ann. § 4-88-113(a)(2), requiring Defendants to pay consumer restitution to those Arkansas consumers affected by the activities outlined herein. In addition to, or in the alternative, the Defendants should be ordered to disgorge all funds received by Defendants as a result of the use of prohibited practices. The Attorney General is aware that some consumers are pursuing private recovery of funds through individual court filings; however, it is not the intent of the Attorney General to provide a mechanism of double recovery for any consumers;

- c. Impose civil penalties, pursuant to Ark. Code Ann. § 4-88-113(a)(3), against Defendants in the amount of \$10,000.00 per violation for each violation of the ADTPA proved at the trial of this matter;
- d. Issue an order, pursuant to Ark. Code Ann. § 4-88-113(b), forfeiting the corporate charters, licenses, permits, and authorizations to do business in Arkansas which may currently be enjoyed by Defendants;
- e. Issue an order, pursuant to Ark. Code Ann. § 4-88-113(e), requiring Defendants to pay the State's costs and fees in this litigation, including, but not limited to, attorneys' fees; and
- f. Grant all other relief that may be just and appropriate.

Respectfully submitted,

LESLIE RUTLEDGE  
Attorney General

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