

**IN THE CIRCUIT COURT OF THE TENTH JUDICIAL CIRCUIT  
IN AND FOR POLK COUNTY, FLORIDA  
CIVIL ACTION**

STATE OF FLORIDA,  
DEPARTMENT OF LEGAL AFFAIRS,  
OFFICE OF THE ATTORNEY GENERAL,

Plaintiff,

CASE NO. \_\_\_\_\_

vs.

DIVISION: \_\_\_\_\_

LAKELAND HOSPITALITY, INC.,  
d/b/a CROSSROADS MOTOR LODGE,

Defendant.

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**COMPLAINT FOR TEMPORARY AND  
PERMANENT INJUNCTION, AND OTHER STATUTORY RELIEF**

Plaintiff, STATE OF FLORIDA, DEPARTMENT OF LEGAL AFFAIRS, OFFICE OF THE ATTORNEY GENERAL, (“the State”) brings this action against Defendant LAKELAND HOSPITALITY, INC., d/b/a CROSSROADS MOTOR LODGE for injunctive relief, civil penalties, and other statutory relief brought pursuant to Florida's Deceptive and Unfair Trade Practices Act, Chapter 501, Part II, Florida Statutes (2003) (“FDUTPA”), Section 501.160, Florida Statutes (2003), prohibiting unconscionable prices in the rental or sale of essential commodities during a declared state of emergency, and pursuant to the Florida Anti-Fencing Act, Sections 812.012 - 812.037, Florida Statutes (2003) (“FAFA”), and states:

**THE PARTIES**

1. The State is statutorily authorized to bring this action under Sections 501.160(8), 501.207 and 812.035(5), F.S. (2003), and is authorized to seek injunctive and other statutory relief thereunder.

2. Defendant LAKELAND HOSPITALITY, INC., d/b/a CROSSROADS MOTOR LODGE ( "CROSSROADS MOTOR LODGE"), is located at 3223 US 98 North, Lakeland, Polk County, Florida 33805. CROSSROADS MOTOR LODGE has conducted business in Polk County, Florida, since on or about January 22, 1998.

### JURISDICTION

3. This Court has jurisdiction pursuant to the provisions of FDUTPA, Sections 501.160, Fla. Stat. (2003), and FAFA.

4. The violations alleged herein occurred in or affect more than one judicial circuit in the State of Florida, including Polk County, and the Tenth Judicial Circuit.

5. The State has conducted an investigation and the Attorney General, Charles J. Crist, Jr., has determined that an enforcement action serves the public interest, (**See attached Exhibit A**).

6. Defendant, at all times material hereto has engaged in "trade or commerce" as that term is defined in Section 501.203(8), Florida Statutes (2003).

7. LAKELAND HOSPITALITY, INC., at all times material hereto, has conducted business as "CROSSROADS MOTOR LODGE," at 3223 US 98 North, Lakeland, Florida 33805, and operates as an overnight lodging business which offers rooms for rent. At all times material hereto, LAKELAND HOSPITALITY, INC. has owned, managed, directed and controlled or had the authority to direct and control, the operations and policies of "CROSSROADS MOTOR LODGE."

### DEFENDANT'S UNLAWFUL COURSE OF BUSINESS

8. On August 10, 2004, the Governor of the State of Florida, Jeb Bush, signed

Executive Order 04-182, and declared that a State of Emergency exists in the State of Florida, including communities located in southern and southwestern portions of the State, in connection with Tropical Storms Bonnie and Charley. Section 8 of Executive Order 04-182 further provides:

“In accordance with Sections 501.160(2) and 501.160(3), Florida Statutes, I hereby place all persons on notice that it is unlawful for any person to rent or sell, or offer to rent or sell at an unconscionable price, any essential equipment, services, or supplies whose consumption or use is necessary because of the emergency. Such services shall include, without limiting the generality of the foregoing, any rental of hotel, motel, or other transient lodging facilities, and any rental of storage facilities. In accordance with Sections 501.160 (1)(b), Florida Statutes, any price exceeding the average price for such essential equipment, services, or supplies for the thirty (30) days immediately preceding the date of this Executive Order shall create a presumption that the price is unconscionable unless such increase is caused by actual costs incurred in connection with such essential equipment, services, or supplies, or is caused by national or international economic trends.”

**(See copy of Executive Order No. 04-182, attached Exhibit “B”).**

9. On August 13, 2004, Hurricane Charley struck Florida with winds exceeding 145 miles per hour, crossing Florida from coast to coast leaving devastation in its wake. Homes were destroyed. People were killed. Hospitals and nursing homes were critically damaged. Almost two million citizens were evacuated. Thousands of people are without electricity or water.

10. During this State of Emergency, essential commodities like lodging, food, water, ice, chemicals, petroleum products, and lumber are necessary for use and consumption for citizens of Florida. Likewise, the rental of a motel, hotel, or other lodging are services which are necessary as a result of the emergency.

11. During this State of Emergency, Defendant CROSSROADS MOTOR LODGE engaged, and continues to engage in unconscionable pricing practices, and unconscionable,

deceptive and unfair acts and practices in trade and commerce.

12. Illustrative of such practices are the following:

A. On August 12, 2004, in preparation for evacuation from Hurricane Charley, and in response to Governor Jeb Bush's declared State of Emergency, Ms. Kimberly Chew made a reservation for accommodations in person at CROSSROADS MOTOR LODGE, for the night of August 13, 2004. At the time of making this reservation, Ms. Chew paid cash to CROSSROADS MOTOR LODGE for the accommodations in the amount of \$49.44, including taxes and fees.

B. On August 13, 2004, CROSSROADS MOTOR LODGE informed Ms. Chew that the hotel had no room available and failed to provide such room as previously prepaid by, and promised to, Ms. Chew. As a result, Ms. Chew requested a refund for the amount paid for the promised and undelivered room. CROSSROADS MOTOR LODGE referred to their "no refund" policy and denied Ms. Chew's refund.

C. On August 12, 2004, in preparation for evacuation from Hurricane Charley, and in response to Governor Jeb Bush's declared State of Emergency, Ms. Sandra Silas made a reservation for accommodations in person at CROSSROADS MOTOR LODGE for the night of August 13, 2004. At the time of making said reservation, Ms. Silas paid cash to CROSSROADS MOTOR LODGE for the accommodations in the amount of \$49.44, including taxes and fees.

D. On August 13, 2004, CROSSROADS MOTOR LODGE failed to provide a room previously prepaid by, and promised to, Ms. Silas. CROSSROADS MOTOR LODGE has not provided a refund.

E. On August 12, 2004, at approximately 12:00 noon, in preparation for evacuation from Hurricane Charley, and in response to Governor Jeb Bush's declared State of Emergency, Ms. Rosemary Duffield (85 years of age) telephoned CROSSROADS MOTOR LODGE and was advised that rooms were available for the night of August 13, 2004, at a rate of \$44.79, including all taxes and fees. Ms. Duffield placed a room on hold and, at approximately 5:00 p.m. on the same day, called CROSSROADS MOTOR LODGE to confirm the room reservation. At this time, an unidentified male represented to Duffield that the \$44 rate would not be offered for the night of August 13, 2002, and that the rate increased to \$55.79. Ms. Duffield reserved the room at that price by providing her credit card number.

F. On August 13, Ms. Duffield called CROSSROADS MOTOR LODGE to confirm her reservation, and was told that no room had been reserved for her. Later that day, a representative of CROSSROADS MOTOR LODGE called Ms. Duffield offering her a room at the previously agreed upon price of \$44.79. Ms. Duffield agreed to the offer at the quoted price and proceeded to travel to CROSSROADS MOTOR LODGE.

G. On August 13, 2004, Ms. Duffield checked into the CROSSROADS MOTOR LODGE, and was charged \$61.27 per night for the reserved room. This represents a 23.9 percent increase in the cost of the hotel room.

13. The representations CROSSROADS MOTOR LODGE made as to cost and availability of its hotel rooms as set forth herein were false, deceptive and misleading, in that:

A. the actual cost charged to consumers for the rooms was grossly higher than the represented price, and

B. CROSSROADS MOTOR LODGE refused rooms to consumers who had

previously paid or reserved such rooms.

**COUNT I**  
**UNCONSCIONABLE PRICING DURING DECLARED STATE**  
**OF EMERGENCY (VIOLATIONS OF SECTION 501.160, FLORIDA STATUTES)**

14. The State realleges and incorporates by reference paragraphs 8 - 13 and all exhibits referred to, as if fully set forth herein, and further alleges:

15. Section 501.160, Fla. Stat. (2003), provides it is *prima facie* evidence that a price is unconscionable if the amount charged represents a gross disparity between the present price and the average price charged, in the usual course of business, during the thirty days prior to a declaration of a state of emergency, or the price grossly exceeds the average prices at which the same or similar goods were available 30 days immediately prior to the state of emergency.

16. By conducting the activities described in paragraphs 8-13 above, CROSSROADS MOTOR LODGE has violated § 501.160, Fla. Stat., by charging unconscionable prices.

17. As set forth in § 501.160 (3), charging unconscionable prices in a declared state of emergency is a violation of the Florida Deceptive and Unfair Trade Practices Act, § 501.204, Fla. Stat. (2003). By undertaking the activities described in paragraphs 8-13 above, CROSSROADS MOTOR LODGE has thereby engaged in unconscionable, unfair and deceptive acts and practices in violation of § 501.204, Fla. Statutes.

18. These above-described acts and practices of CROSSROADS MOTOR LODGE have injured and will likely continue to injure and prejudice the public.

19. Defendant willfully engaged in the acts and practices when it knew or should have known that said acts and practices were unfair or deceptive or prohibited by law.

20. Unless CROSSROADS MOTOR LODGE is temporarily and permanently

enjoined from engaging further in the acts and practices herein complained of, the continued activities of CROSSROADS MOTOR LODGE will result in irreparable injury to the public for which there is no adequate remedy at law.

**RELIEF REQUESTED**

21. WHEREFORE, Plaintiff, State of Florida, Department of Legal Affairs, Office of the Attorney General, asks for judgment:

A. Temporarily and permanently enjoining Defendant CROSSROADS MOTOR LODGE, its officers, agents, servants, employees, attorneys and those persons in active concert or participation with them who receive actual notice of the injunction, from engaging in the acts and practices in violation of provisions of Chapter 501, Part II, Florida Statutes (2003), and § 501.160, Florida Statutes as specifically alleged above, and any similar acts and practices;

B. Assessing against Defendant CROSSROADS MOTOR LODGE civil penalties in the amount of Ten Thousand Dollars (\$10,000) for each violation of Chapter 501, Part II, Florida Statutes (2003) in accordance with § 501.2075, Fla. Stat. (2003); and Fifteen Thousand Dollars (\$15,000) for each such violation that victimizes, or attempts to victimize, a senior citizen or a handicapped person, in accordance with § 501.2077, Fla. Stat. (2003).

C. Awarding to the State all reasonable attorney's fees and costs pursuant to § 501.2105, Fla. Stat. (2003);

D. Awarding actual damages caused to consumers by Defendant's acts and practices in violation of FDUTPA, pursuant to Section 501.207(1)(c), Fla. Stat. (2003);

E. Assessing against Defendant CROSSROADS MOTOR LODGE civil penalties in the amount of One Thousand Dollars (\$1,000) for each violation of §501.160, Fla.

Stat. (2003) in accordance with §501.164, Fla. Stat. (2003);

F. Granting such other relief as this Honorable Court deems just and proper.

**COUNT II**  
**UNFAIR AND DECEPTIVE TRADE PRACTICES**  
**(VIOLATIONS OF THE STANDARDS OF DECEPTION AND UNFAIRNESS)**

22. The State realleges and incorporates by reference paragraphs 8 - 13 and all exhibits referred to, as if fully set forth herein, and further alleges:

23. Section 501.204(1), Fla. Stat. (2003), declares unconscionable acts or practices in the conduct of any trade or commerce to be unlawful.

24. As set forth in paragraphs 8-13, above, CROSSROADS MOTOR LODGE has committed acts or practices in trade or commerce which shock the conscience, engaged in representations, acts, practices or omissions which are material, and which are likely to mislead consumers acting reasonably under the circumstances; or Defendants have committed acts or practices in trade or commerce which offend established public policy and are unethical, oppressive, unscrupulous or substantially injurious to consumers. Thus, Defendants have engaged in unfair or deceptive acts or practices in the conduct of any trade or commerce in violation of § 501.204(1), Fla. Stat.(2003).

25. These above-described acts and practices of CROSSROADS MOTOR LODGE have injured and will likely continue to injure and prejudice the public.

26. Defendant has willfully engaged in the acts and practices when it knew or should have known that such acts and practices were unfair or deceptive or otherwise prohibited by law.

27. Unless CROSSROADS MOTOR LODGE is temporarily and permanently enjoined from engaging further in the acts and practices complained of, the continued activities

of CROSSROADS MOTOR LODGE will result in irreparable injury to the public for which there is no adequate remedy at law.

**RELIEF REQUESTED**

28. WHEREFORE, Plaintiff, State of Florida, Department of Legal Affairs, Office of the Attorney General, asks for judgment:

A. Temporarily and permanently enjoining Defendant CROSSROADS MOTOR LODGE, its officers, agents, servants, employees, attorneys and those persons in active concert or participation with them who receive actual notice of the injunction, from engaging in the acts and practices in violation of provisions of Chapter 501, Part II, Florida Statutes (2003), and § 501.160 as specifically alleged above, and any similar acts and practices;

B. Assessing against Defendant CROSSROADS MOTOR LODGE civil penalties in the amount of Ten Thousand Dollars (\$10,000) for each violation of Chapter 501, Part II, Florida Statutes (2003); and Fifteen Thousand Dollars (\$15,000) for each such violation that victimizes, or attempts to victimize, a senior citizen or handicapped person, in accordance with § 501.2077, Fla. Stat. (2003).

C. Awarding to Plaintiff, the State, all reasonable attorney's fees and costs pursuant to § 501.2105, Fla. Stat. (2003);

D. Awarding actual damages caused to consumers by Defendant's acts and practices in violation of FDUTPA, pursuant to Section 501.207(1)(c), Fla. Stat. (2003);

E. Assessing against Defendant CROSSROADS MOTOR LODGE civil penalties in the amount of One Thousand Dollars (\$1,000) for each violation of §501.160, Fla. Stats. (2003)in accordance with §501.164, Fla. Stat. (2003);

F. Granting such other relief as this Honorable Court deems just and proper.

**COUNT III**  
**VIOLATIONS OF FLORIDA ANTI-FENCING ACT**

29. The State realleges and incorporates by reference paragraphs 8 - 13 and all exhibits referred to, as if fully set forth herein, and further alleges:

30. On or about August 13, 2004, Defendant CROSSROADS MOTOR LODGE, did knowingly and unlawfully obtain and use, \$49.44 of U.S. currency belonging to Kimberly Chew, with the intent to temporarily or permanently deprive Kimberly Chew of all rights and benefits to such property, in violation of § 812.014, Fla. Stat. (2003).

31. On or about August 13, 2004, Defendant CROSSROADS MOTOR LODGE, did knowingly and unlawfully obtain and use, \$49.44 of U.S. currency belonging to Sandra Silas, with the intent to temporarily or permanently deprive Sandra Silas of all rights and benefits to such property, in violation of § 812.014, Fla. Stat. (2003).

32. On or about August 13, 2004, Defendant CROSSROADS MOTOR LODGE, did knowingly and unlawfully obtain and use, \$61.27 U.S. currency belonging to Rosemary Duffield, with the intent to temporarily or permanently deprive Rosemary Duffield of a right to said property or a benefit from said property, or appropriate said property to Defendant's use or the use of a person not entitled to the use of said property, in violation of §§ 812.014, Fla. Stat. (2003).

**RELIEF REQUESTED**

33. WHEREFORE, Plaintiff, State of Florida, Department of Legal Affairs, Office of the Attorney General, asks for judgment:

- A. Imposing reasonable restrictions upon the future activities of Defendant CROSS ROADS MOTOR LODGE including, but not limited to, prohibiting the Defendant from engaging in the same alleged type of endeavor;
- B. Order the suspension or revocation of all licenses, permits or prior approval granted to Defendant by any State department or agency;
- C. Order forfeiture of all real and personal property, including money, used in the course of, intended for use in the course of, derived from, or realized through the Defendant's alleged conduct in violation of § 812.014, Fla. Stat. (2003);
- D. Award Plaintiff, the State, all such costs and attorney fees as may be taxable by law; and
- E. Award such other and further relief as the Court deems appropriate.

Respectfully submitted,

CHARLES J. CRIST, JR.  
ATTORNEY GENERAL

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