

**IN THE CIRCUIT COURT OF THE SEVENTEENTH JUDICIAL  
CIRCUIT, IN AND FOR BROWARD COUNTY, FLORIDA**

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

Plaintiff,

Case No.:

vs.

**ALL-IN-1 ENTERPRISES, INC.,  
d/b/a TRI COUNTY PLUMBING  
SERVICES, SUSAN GILBERT,**  
individually and as president and director  
of ALL-IN-1 ENTERPRISES, INC.,  
**LESLIE B. GILBERT,** individually and  
as secretary and director of ALL-IN-1  
ENTERPRISES, INC. and **RANDALL L.  
GILBERT,** individually and as director  
of ALL-IN-1 ENTERPRISES, INC.

Defendants.

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**COMPLAINT AND APPLICATION FOR PRELIMINARY RELIEF**

Plaintiff, **OFFICE OF THE ATTORNEY GENERAL, DEPARTMENT OF LEGAL AFFAIRS, STATE OF FLORIDA** (hereinafter referred to as "Plaintiff"), sues Defendants, **ALL-IN-1 ENTERPRISES, INC., d/b/a/ TRI COUNTY PLUMBING SERVICES**, an active Florida Corporation, **SUSAN GILBERT**, individually and as president and director of ALL-IN-1 ENTERPRISES, INC. d/b/a/ TRI COUNTY PLUMBING SERVICES, **LESLIE B. GILBERT**, individually and as secretary and director of ALL-IN-1 ENTERPRISES, INC. d/b/a/ TRI COUNTY PLUMBING SERVICES and **RANDALL L. GILBERT**, individually and as director of ALL-IN-1

ENTERPRISES, INC. d/b/a/ TRI COUNTY PLUMBING SERVICES and alleges:

**JURISDICTION AND VENUE**

1. This is an action for damages and injunctive relief, brought pursuant to Florida's Deceptive and Unfair Trade Practices Act (FDUTPA), Chapter 501, Part II, Florida Statutes (2001).

2. This Court has jurisdiction pursuant to the provisions of said statute.

3. The statutory violations alleged herein occurred in or affected more than one judicial circuit in the State of Florida.

4. Venue is proper in the Seventeenth Judicial Circuit, Broward County, Florida, as the defendants engage in business in Broward County and because much of the conduct alleged below occurred in Broward County, Florida.

**PLAINTIFF**

5. Plaintiff is an enforcing authority of the FDUTPA as defined in Fla. Stat. Chap. 501.203, and is authorized to seek damages, injunctive and other statutory relief pursuant to Fla. Stat. Chap. 501, Part II..

6. Plaintiff has conducted an investigation and the head of the enforcing authority, Attorney General Charles J. Crist, Jr., has determined that an enforcement action serves the public interest. A copy of said determination is appended hereto and incorporated herein as Plaintiff's Exhibit A to this Complaint.

**DEFENDANTS**

7. Defendant **ALL-IN-1 ENTERPRISES, INC. d/b/a TRI COUNTY PLUMBING SERVICES (TRI COUNTY PLUMBING)**, an active Florida corporation, did and continues to do business as a plumbing company in the State of Florida. It's principal place of business, as reflected

by corporate records, is 15700 N.W. 7<sup>th</sup> Avenue, Miami, Dade County, Florida. According to the Florida Department of State, Division of Corporations, **TRI COUNTY PLUMBING SERVICES** is a fictitious name registered to **ALL-IN-1 ENTERPRISES, INC.**

8. Defendant **SUSAN GILBERT** is and was at all times material an officer and/or director of **ALL-IN-1 ENTERPRISES, INC.** Upon information and belief, Defendant **SUSAN GILBERT** is a resident of Dade County, Florida and is sui juris. Defendant **SUSAN GILBERT**, at all times material, knew of and controlled the activities of the Defendant corporation and has helped plan, devise, and implement the deceptive and unfair practices described below.

9. Defendant **LESLIE B. GILBERT**, is and was at all times material an officer and/or director of **ALL-IN-1 ENTERPRISES, INC.** Upon information and belief, Defendant **LESLIE B. GILBERT** is a resident of Dade County, Florida and is sui juris. Defendant **LESLIE B. GILBERT**, at all times material, knew of and controlled the activities of the Defendant corporation and has helped plan, devise, and implement the deceptive and unfair practices described below.

10. Defendant **RANDALL L. GILBERT** was an officer and/or director of **ALL-IN-1 ENTERPRISES, INC.** Upon information and belief, Defendant **RANDALL L. GILBERT** is a resident of Broward County, Florida and is sui juris. Defendant **RANDALL L. GILBERT** at all times material knew of and controlled the activities of the Defendant corporation and has helped plan, devise, and implement the deceptive and unfair practices described below..

11. Defendant **RANDALL L. GILBERT**, as the holder of Certified Plumbing Contractor License Number CFC 056972, issued by the Florida Department of Business and Professional Regulation, is and was at all times material the Primary Qualifying Agent for **TRI COUNTY PLUMBING SERVICES.**

12. Defendant **RANDALL L. GILBERT**, who is also the Registered Agent and in-house counsel of the Defendant corporation, prepared the contract for **TRI COUNTY PLUMBING** which he sues on and represents **TRI COUNTY PLUMBING** in actions on this contract, thereby continuing the unconscionable, unfair or deceptive practices alleged herein.

13. Defendants **SUSAN GILBERT, LESLIE B. GILBERT** and **RANDALL L. GILBERT** used the Defendant corporation, **ALL-IN-1 ENTERPRISES, INC., d/b/a/ TRI COUNTY PLUMBING SERVICES** as a device to engage in unconscionable acts or practices, and unfair or deceptive acts or practices in violation of Fla. Stat. Chap. 501.204(1).

14. Defendants, at all times material hereto, provided services as defined within Section 501.203(8), Florida Statutes (2001).

15. Defendants, at all times material hereto, solicited consumers within the definitions of Section 501.203(7), Florida Statutes (2001).

16. Defendants, at all times material hereto, were engaged in trade or commerce within the definition of Section 501.203(8), Florida Statutes (2001).

#### **DECEPTIVE AND UNFAIR TRADE PRACTICES**

17. Chapter 501.204(1), Florida Statutes, provides that “unconscionable acts or practices, and unfair or deceptive acts or practices in the conduct of any trade or commerce are hereby declared unlawful.”

#### **VIOLATIONS OF FLA. STAT. CHAP. 501, PART II** **COUNT I**

18. Plaintiff adopts, incorporates herein and realleges paragraphs 1 through 17 as if fully set forth bellow.

19. Commencing on a date unknown, but at least subsequent to May 2001, the Defendants engaged in various unconscionable acts or practices, and unfair or deceptive trade practices, as set out further herein, in violation of Chapter 501, Part II, Florida Statutes (2001).

20. Among said acts or practices, the Defendants falsely promise and advertise that they will conduct immediate repairs of consumers' plumbing in emergency situations while not intending to carry out such repairs when called upon to do so. The Defendants' principal form of advertising is a two-page advertisement in the plumbing section of the yellow pages phone book that reads, in part: "EMERGENCY SERVICES 7 DAYS 24 HOURS" and "Price Given Up Front No Hidden Cost!" A copy of this advertisement is appended hereto as Exhibit B.

21. The Defendants' advertisement creates a false impression on consumers that there will be no hidden fees in connection with the repairs to be performed by the Defendants.

22. In response to this advertisement, consumers call the Defendants to request assistance with their plumbing repair.

23. The Defendants use these calls as a means to lure consumers into signing contracts for overpriced and unneeded work.

24. Upon arrival at a consumer's property, the Defendants employee demands immediate, often undisclosed, payment of an initial fee. This fee, which the Defendants charge and demand payment for before proceeding to inspect the problem or do any work, must be paid as soon as the Defendants' employee arrives at a consumer's home. The amount of the initial fee varies depending on the circumstances. However, this initial fee is typically charged at a higher amount for senior citizens.

25. The defendants' failure to disclose or to disclose adequately the material information

set forth in Count I is a deceptive act or practice in violation of the FDUTPA, Fla. Stat. Chap. 501.204.

## COUNT II

26. Plaintiff adopts, incorporates herein and realleges paragraphs 1 through 25 as if fully set forth bellow.

27. The Defendants' advertisement creates a false impression on consumers that a licensed plumber will be sent to repair their problem. This plumbing problem is often an emergency, as water may be leaking into the homes of consumers.

28. Instead of sending a licensed plumber, the Defendants dispatch a salesman to inspect the problem. The Defendants pay the salesman a commission from the total amount charged to a consumer, including the initial fee addressed in Count I.

29. The Defendants' failure to disclose or to disclose adequately the material information set forth above in Count II is a misleading and deceptive act or practice in violation of the FDUTPA, Fla. Stat. Chap. 501.204.

## COUNT III

30. Plaintiff adopts, incorporates herein and realleges paragraphs 1 through 29 as if fully set forth bellow.

31. Following payment of the initial fee, the Defendants' salesman proceeds to inspect the plumbing problem. If the problem is a water leak, the salesman immediately charges an additional fee for leak detection. The amount of the initial fee varies depending on the circumstances. However, this initial fee is typically charged at a higher amount for senior citizens.

32. The Defendants charge a leak detection fee regardless of whether or not the source

of the leak is clearly visible. The Defendants also charge consumers for “electronic leak detection” even when no electronic or other equipment is used.

33. Having no intention of repairing the problem immediately because the “repair” person is a salesman and not a plumber, the Defendants then provide a low-ball first estimate of the cost of the repair. At the time that these low-ball first estimates are provided, the Defendants have no intention of providing the services at the quoted price. Rather, these first estimates are provided for the sole purpose of securing consent from the consumer to proceed with the repair.

34. The Defendants then demand payment of the estimated amount before proceeding with any work. This estimated amount is typically charged at a higher rate for senior citizens.

35. In connection with this payment, consumers are pressured by the Defendants to sign a contract wherein the consumer agrees to pay for the initial fee, the leak detection fee and the low-ball estimated cost of the plumbing repair.

36. According to sworn consumer affidavits submitted to Plaintiff, consumers sign the contract relying on misrepresentations made by the Defendants. Consumers would not have signed the contract if they had been aware of the misrepresentations.

37. Through the use of misrepresentations, consumers are lead to believe by the Defendants that the amounts already charged will cover the entire cost of the repair.

38. The Defendants’ representations set forth above in Count III are false and misleading, and their failure to disclose or to disclose adequately the material information set forth above is a deceptive act or practice in violation of the FDUTPA, Fla. Stat. Chap. 501.204.

#### **COUNT IV**

39. Plaintiff adopts, incorporates herein and realleges paragraphs 1 through 38 as if fully

set forth bellow.

40. As part of their pressure tactics, designed to have the consumer sign a contract for the work, the Defendants often misrepresent to consumers that the cost of such plumbing repairs are covered by the consumer's home insurance policy and that the consumers' insurance company will reimburse the consumer for the repairs.

41. If consumers hesitate to proceed with the work recommended by the Defendants, the Defendants typically continue to increase pressure on consumers by contacting a private insurance adjuster. This private adjuster is one that is preferred by the Defendants. The private adjuster then falsely reassures consumers that the work will be covered by the consumers' home insurance policy.

42. The Defendants' representations set forth above in Count IV are false and misleading and constitute a deceptive act or practice in violation of the FDUTPA, Fla. Stat. Chap. 501.204.

#### **COUNT V**

43. Plaintiff adopts, incorporates herein and realleges paragraphs 1 through 42 as if fully set forth bellow.

44. When the Defendants discover that a consumer's home contains polybutylene piping, the Defendants pressure consumers into re-piping their entire homes regardless of how small their initial plumbing problem might have been. Through the use of misrepresentations, consumers are falsely lead to believe by Defendants that polybutylene pipes are illegal and that they will get reimbursed for such re-piping as the result of a class-action lawsuit.

45. As part of their pressure tactics, the Defendants further misrepresent to the consumers that they have an obligation to disclose the existence of such polybutylene piping to building inspectors.



46. The Defendants' representations set forth above in Count V are false and misleading and constitute a deceptive act or practice in violation of the FDUTPA, Fla. Stat. Chap. 501.204.

### COUNT VI

47. Plaintiff adopts, incorporates herein and realleges paragraphs 1 through 46 as if fully set forth bellow.

48. After inducing consumers to sign the contract and pay the initial fee, the "first estimate" and, occasionally, pay for a work permit, the Defendants proceed to dismantle, remove, tear down and/or demolish walls, floors, ceilings, cabinets and/or bathroom fixtures, such as bathtubs and toilets. Such work is unnecessary and is carried out to increase the scope of work and cost to the consumer.

49. Consumers are frequently charged a permit fee when no such permit is required, and the Defendants will often fail to obtain such permit.

50. After carrying out the demolition, the Defendants typically misrepresent the scope of work required to complete the repair. The Defendants then demand a further payment of grossly inflated hidden additional fees before proceeding with the unneeded work.

51. The Defendants additionally inflate costs to consumers by using unnecessary or excessive amounts of materials and labor, and by delaying the commencement and prolonging the duration of the work.

52. The Defendants will not perform any further work until such additional hidden fees are paid and until the consumer signs a new contract reflecting such higher fees and unneeded work. The Defendants will not repair or replace anything they have demolished or removed if the consumer refuses to sign a new contract and make such additional payment.

53. If consumers protest, the Defendants engage in additional pressure tactics to force consumers to pay for such additional hidden costs. After consumers relent, the Defendants make consumers sign a new contract for the unneeded additional work and inflated hidden fees.

54. According to sworn affidavits received by the Plaintiff, consumers feel like they have no other choice but to sign the new contract and make the additional payment because their homes are then in disrepair, because the Defendants will not repair or replace what they have demolished or removed unless paid the additional fee, and because the consumers have already made a previous payment to the Defendants.

55. According to sworn affidavits received by the Plaintiff, consumers sign the contract having no knowledge of the plumbing repair or expense truly necessary to fix their plumbing problems.

56. The Defendants have superior knowledge and information regarding the scope of work, services and materials needed to perform plumbing repairs. Consumers, under pressure from the Defendants and relying on their misrepresentations, sign the contract for overpriced and unneeded work.

57. The Defendants' acts and representations set forth above in Count VI are deceptive, false and misleading and constitute a deceptive act or practice in violation of the FDUTPA, Fla. Stat. Chap. 501.204.

## **COUNT VII**

58. Plaintiff adopts, incorporates herein and realleges paragraphs 1 through 57 as if fully set forth bellow.

59. If consumers refuse to pay the additional hidden fees, the Defendants threaten them

with collection activities, lawsuits, homestead liens and foreclosures, and will abandon the job. The Defendants engage in such pressure tactics to induce consumers into entering into contracts at grossly inflated prices for unneeded materials and services, or in amounts greater than required or necessary.

60. The two-sided contract used by the Defendants is difficult to read because it is printed in very fine print on the reverse side, and it is designed so that the Defendants can make claims against consumers even when consumers realize that they have been duped.

61. In this contract, the Defendants claim all of its benefits but no burdens. According to one provision of the contract, “[s]hould any governmental authority assess any charges, fees, or penalties against TCPS for work performed on the job site, regardless of reason, the *customer* shall be responsible for full payment of same.” (Emphasis added).

62. The contract further states that “there is no right of cancellation and all deposits shall be considered a retainer and as such are earned by TCPS when issued by the customer. DEPOSITS ARE NON-REFUNDABLE.” Additionally, the contract states that “[t]he customer’s failure to perform any promise or condition herein shall be material and deemed a breach.” No similar provision is included in the contract for the Defendants’ failure to perform.

63. Although the Defendants’ contract denies consumers the right of cancellation, the Defendants claim that “TCPS may, at its option, elect to cancel this agreement...should the work described on the face of this agreement not be concluded, at no fault to TCPS...” and that “[i]n the event of cancellation, all monies owed to TCPS shall be due and payable immediately.” This provision allows the Defendants to walk away from a job site whenever they chose to do so while claiming that the consumer continues to owe them payment in accordance with the contract.

64. The contract also states that “the customer and/or the customer’s authorized agent grants to TCPS...the uncontested right to place a lien on the job site property.”

65. If consumers refuse to authorize the additional and unnecessary work, the Defendants will seek liquidated damages, as provided for in the contract, for 25% of the contract amount as “lost profits and opportunities.”

66. The language on the contract provides that in the event its cancellation, “owner agrees to pay TCPS (Tri-County Plumbing Services) twenty-five (25%) percent of the uncompleted contract amount, as a liquidated damage for TCPS’s lost profits and opportunities.” The liquidated damages provision in the contract is excessive, constitutes a penalty and is therefore unenforceable.

67. Even though the Defendants reside in Florida and operate a Florida corporation within the State of Florida, the contract inexplicably provides that “[u]nless otherwise stated, Owner expressly agrees that New York law shall govern and is the choice of law.”

68. Such language in the contract, as described in the paragraphs above in Count VII, constitutes an unconscionable act or practice and is unlawful, deceptive and unfair in connection with the conduct of the Defendants’ trade or business.

#### **COUNT VIII**

69. Plaintiff adopts, incorporates herein and realleges paragraphs 1 through 68 as if fully set forth bellow.

70. Defendant **RANDALL L. GILBERT**, whose law office is located within the premises of **TRI-COUNTY PLUMBING**, acting in concert with his co-Defendants, has participated in collection activities against consumers, either in his capacity as an attorney representing **ALL-IN-1 ENTERPRISES, INC.**, or as a Director of the corporation, by threatening consumers with

collection, filing numerous lawsuits, homestead liens and foreclosure actions against consumers.

71. Defendant **RANDALL L. GILBERT**, as a Director and as the primary qualifying plumber of **TRI COUNTY PLUMBING**, a business owned by Defendant **SUSAN GILBERT** and Defendant **LESLIE GILBERT**, his parents, at all times material has had a financial interest in pursuing the unconscionable, unfair or deceptive trade practices described herein.

72. Defendant **RANDALL L. GILBERT**, acting in concert with his co-Defendants, frequently made false and misleading statements to various consumer agencies and/or credit card companies in response to complaints filed by consumers. Such false and misleading statements would be made to justify the inflated fees charged to consumers by Defendants.

73. Acting in his capacity as an attorney, Defendant **RANDALL L. GILBERT** pursued unlawful collection activities described herein and made false and misleading statements to third parties regarding consumers in order to intimidate and force consumers to pay for the unauthorized and unnecessary charges described above.

74. Defendant **RANDALL L. GILBERT**'s representations to third parties were false and misleading, and constitute deceptive acts or practices in violation of the FDUTPA.

75. Defendant **RANDALL L. GILBERT**'s collection activities against consumers, by threatening consumers with collection, filing lawsuits, homestead liens and foreclosure actions, constitute unconscionable acts or practices within the provisions of the FDUTPA and are unlawful, deceptive and unfair in connection with the conduct of the Defendants' trade or business.

### **CONSUMER INJURY**

76. The acts and practices of the Defendants, as herein above alleged, have been injurious to and presently injure and prejudice the public and resulted in damages thereto, and constitute

unconscionable acts or practices, and unfair or deceptive acts and practices within the intent and meaning of Section 501 Part II, Florida Statutes. In addition, the Defendants have been unjustly enriched as a result of these acts and practices.

77. Said acts and practices further constitute unfair and deceptive acts and practices within the intent and meaning of the Federal Trade Commission Act and pursuant to the standards set forth and interpreted by the Federal Trade Commission and federal courts.<sup>1</sup>

78. Unless the Defendants are enjoined from engaging in further acts and practices herein complained of, the continued activities of said Defendants will result in further unjust enrichment and irreparable injury to the unwary consuming public, for which there is no adequate remedy at law.

#### **PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiff requests this Court, as authorized by the provisions of Fla. Stat. Chap. 501.207 and pursuant to its own equitable powers:

(A) Enter an Order pursuant to Fla. Stat. Chap. 501.207 permanently enjoining the Defendants, their agents, employees, attorneys, or any other persons who act under, by, through, in concert with or on behalf of the Defendants, from operating or participating in a plumbing business in or from the State of Florida;

(B) Enter an Order pursuant to Fla. Stat. Chap. 501.207 permanently enjoining Defendants, their agents, employees, attorneys, or any other persons who act under, by, through, in concert with or on behalf of the Defendants from disposing of, transferring, relocating, dissipating or otherwise

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<sup>1</sup>As stated in Fla. Stat. Chap. 501.204(2): “It is the intent of the Legislature that, in construing subsection (1), due consideration and great weight shall be given to the interpretations of the Federal Trade Commission and the federal courts relating to s. 5(a)(1) of the Federal Trade Commission Act, 15 U.S.C. s. 45(a)(1) as of July 1, 2001.”

altering the status of their assets, bank accounts, and property (real, personal, and intangible), or divesting themselves of any interest in any enterprise, including real estate, without prior Court approval;

(C) Enter an Order awarding actual damages to all consumers who are shown to have been injured in this action, pursuant to Fla. Stat. Chap. 501.207;

(D) Enter an Order dissolving All-in-1 Enterprises, Inc. as a Florida corporation pursuant to Fla. Stat. Chap. 501.207;

(E) Enter an Order dissolving Tri County Plumbing Services as a fictitious name pursuant to Fla. Stat. Chap. 501.207;

(F) Enter an Order commanding the Defendants to surrender their plumbing licenses to the Florida Department of Business and Professional Regulation;

(G) In the event that this Court does not eventually grant the remedy of dissolution of the defendant corporation and its fictitious name, enter an Order striking the liquidated damages clause from the contract used by the Defendants pursuant to Fla. Stat. Chap. 501.207;

(H) Waive the posting of bond by Plaintiff in this action pursuant to Fla. Stat. Chap. 60.08 and Fla.R.Civ.P. 1.610(b);

(I) Assess against the Defendants herein civil penalties, pursuant to Fla. Stat. Chap. 501.2075, in the amount of Ten Thousand Dollars (\$10,000.00) for each act or practice found to be in violation of Chapter 501, Part II, Florida Statutes;

(J) Assess against the Defendants herein civil penalties, pursuant to Fla. Stat. Chap. 501.2077, in the amount of Fifteen Thousand Dollars (\$15,000.00) for each act or practice against a senior citizen found to be in violation of Chapter 501, Part II, Florida Statutes;

(K) Enter an Order pursuant to Fla. Stat. Chap. 501.207 permanently enjoining the Defendants, their agents, employees, attorneys, or any other persons who act under, by, through, in concert with or on behalf of the Defendants from violating the FDUTPA;

(L) Award reasonable attorney's fees and costs to Plaintiff herein, pursuant to Fla. Stat. Chap. 501.2105;

(M) Grant such other and further legal and equitable relief as this Court deems just and proper pursuant to Fla. Stat. Chap. 501.207.

Respectfully Submitted,

**CHARLES J. CRIST, JR.**  
**ATTORNEY GENERAL**

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