


**IN THE CIRCUIT COURT FOR DAVIDSON COUNTY, TENNESSEE**  
**TWENTIETH JUDICIAL DISTRICT AT NASHVILLE**  
 FILED  
 2010 MAY 20 AM 9:06

ROBERT E. COOPER, JR.

**STATE OF TENNESSEE, *ex rel.* ROBERT** )  
**E. COOPER, JR.,** )  
 )  
**Plaintiff,** )  
 )  
**v.** )  
 )  
**ELENA VARGAS, individually and** )  
**doing business as EXPRESS LATINO** )  
**SERVICIOS, and EXPRESS LATINO** )  
**SERVICES, sole proprietorships owned and** )  
**operated by ELENA VARGAS,** )  
 )  
**Defendant.** )

  
 \_\_\_\_\_ D.C.

No. \_\_\_\_\_

**COMPLAINT FOR PERMANENT INJUNCTION AND OTHER RELIEF**

1. This civil law enforcement action is brought in the name of the State of Tennessee, in its sovereign capacity, by and through Robert E. Cooper, Jr., Attorney General and Reporter (“Attorney General”) pursuant to Tenn. Code Ann. § 47-18-108 of the Tennessee Consumer Protection Act of 1977, Tenn. Code Ann. § 47-18-101 *et seq.* (“TCPA”), the Notaries Public statute, Tenn. Code Ann. § 8-16-401 *et seq.*, the Attorney General’s general statutory authority at Tenn. Code Ann. § 8-6-109, and the Attorney General’s common law authority.

2. Mary Clement, Director of the Division of Consumer Affairs of the Department of Commerce and Insurance, has requested that the State of Tennessee, by the Attorney General, commence civil law enforcement proceedings against the above-named Defendant for violations of the TCPA.

3. The Director and the Attorney General have reason to believe that the Defendant named herein has violated the TCPA and the Notaries Public statute. The Director and the Attorney General also have reason to believe that this action is in the public interest.

4. Defendant has been provided with ten (10) days notice of contemplated legal action as set forth in Tenn. Code Ann. § 47-18-108(a)(2).

### **I. JURISDICTION AND VENUE**

5. The jurisdiction of this Court is invoked pursuant to the provisions of Tenn. Code Ann. § 47-18-108.

6. Venue is proper in Davidson County pursuant to Tenn. Code Ann. § 47-18-108(a)(3), because it is the county where the alleged unfair or deceptive acts or practices took place, and the county in which the Defendant conducts, transacts or has transacted business.

### **II. DEFENDANT**

The State of Tennessee alleges upon information and belief:

7. Defendant Elena Vargas (“Defendant Vargas”) is an individual and resident of Tennessee. Defendant Vargas personally participated in and controlled and directed the business practices of her sole proprietorship, Express Latino Services also known as Express Latino Servicios.

8. Defendant Vargas owns and/or owned and operates and/or operated a business called Express Latino Servicios and Express Latino Services. Defendant Vargas d/b/a Express Latino Services and/or Express Latino Servicios is and/or was headquartered in Nashville, Tennessee at 3708A Nolensville Pike, 37211.

### **III. GENERAL ALLEGATIONS**

The State of Tennessee alleges upon information and belief:

9. Under Tennessee law, a notary public who is not licensed to practice law in Tennessee and advertises their services as a notary public must include in all advertisements the following disclaimer in English and the language used in the advertisement: "I AM NOT AN ATTORNEY LICENSED TO PRACTICE LAW IN THE STATE OF TENNESSEE, AND I MAY NOT GIVE LEGAL ADVICE OR ACCEPT FEES FOR LEGAL ADVICE."

10. Defendant has advertised as a "notaria" without the required disclaimer as required by Tenn. Code Ann. § 8-16-401.

### **IV. FACTUAL ALLEGATIONS**

Upon information and belief, the State of Tennessee alleges as follows:

11. Defendant has engaged in trade or commerce in whole or in part in the State of Tennessee by offering goods or services to consumers.

12. Defendant has claimed to be notaries or notarias.

13. Defendant Vargas ran a business located at 3708A Nolensville Pike, Nashville, Tennessee, 37211.

14. Defendant Vargas d/b/a Express Latino Servicios and Express Latino Services advertised in Latino News as having a "notaria."

15. Defendant Vargas is not an attorney and not licensed to practice law in the State of Tennessee.

16. Defendant Vargas d/b/a Express Latino Servicios and Express Latino Services does not employ an attorney who is licensed to practice law in the State of Tennessee.

17. Defendant has directly engaged in the alleged conduct and unfair or deceptive acts or practices described herein, had knowledge or should have had knowledge of the practices, and had the authority to control and stop the violations of the law.

18. As a result of the Defendant's conduct described in this Complaint, consumers may have suffered ascertainable losses associated with the various unfair, deceptive or misleading acts or practices alleged herein.

## **V. VIOLATIONS OF THE LAW**

### **COUNT I: TENNESSEE CONSUMER PROTECTION ACT**

19. The Plaintiff incorporates by reference and re-alleges each and every allegation contained in Paragraphs (10) - (18) of this Complaint.

20. Defendant has caused likelihood of confusion or of misunderstanding as to the source and approval of their goods or services, in violation of Tenn. Code Ann. § 47-18-104(b)(2).

21. Defendant has caused likelihood of confusion or of misunderstanding as to the affiliation, connection or association with, or certification by, another, in violation of Tenn. Code Ann. § 47-18-104(b)(3).

22. Defendant has used statements in advertisements which create a false impression of the quality, value, usability or origin of the goods or services offered, in violation of Tenn. Code Ann. § 47-18-104(b)(21).

23. Defendant has advertised as a notaria without a clear and conspicuous disclaimer disclosing the individuals are not licensed to practice law in Tennessee in violation of Tenn. Code Ann. § 47-18-104.

24. All of the acts and practices engaged in and employed by the Defendant described in this Complaint are deceptive to the consumer or other person in violation of Tenn. Code Ann. § 47-18-104(b)(27).

### **DEMAND FOR RELIEF**

WHEREFORE, PREMISES CONSIDERED, Plaintiff, State of Tennessee, *ex rel.* Robert E. Cooper, Jr., Attorney General and Reporter, pursuant to the Tennessee Consumer Protection Act of 1977, the Attorney General's general statutory authority, the Attorney General's common law authority, and this Court's equitable powers, prays:

1. That this Complaint be filed without cost bond as provided by Tenn. Code Ann. §§ 20-13-101 and 47-18-116.

2. That process issue and be served upon the Defendant requiring the Defendant to appear and answer this Complaint.

3. That this Court adjudge and decree that the Defendant has engaged in the aforementioned acts or practices which violate the Notaries Public statute which constitutes a violation of the Tennessee Consumer Protection Act of 1977.

4. That pursuant to Tenn. Code Ann. §§ 47-18-108(a)(1), (a)(4), and (a)(5), this Court permanently enjoin and restrain the Defendant from engaging in the aforementioned acts or practices which violate the Tennessee Consumer Protection Act of 1977, and other laws and regulations.

5. That this Court enter judgment against the Defendant and in favor of the State for the reasonable costs and expenses of the investigation and prosecution of the Defendant's

actions, including attorneys' fees and costs, and expert and other witness fees, as provided by Tenn. Code Ann. §§ 47-18-108(a)(5), (b)(4), and other state law.

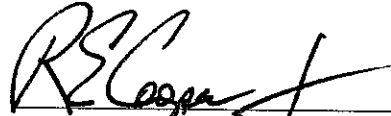
6. That pursuant to Tenn. Code Ann. § 47-18-108(b)(1), this Court make such orders or render such judgments as may be necessary to restore any person who has suffered any ascertainable loss as defined in Tenn. Code Ann. § 47-18-2102(1), including statutory interest, and requiring that the Defendant pays all costs of distributing and administering the same.

7. That this Court adjudge and decree that the Defendant pay civil penalties of not more than one thousand dollars (\$1,000.00) per violation of the Tennessee Consumer Protection Act of 1977 to the State of Tennessee as provided by Tenn. Code Ann. § 47-18-108(b)(3).

8. That all costs in this case be taxed against the Defendant.

9. That this Court grant Plaintiff such other and further relief as this Court deems just and proper.

Respectfully submitted,



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**ROBERT E. COOPER, JR.**  
Attorney General and Reporter  
B.P.R. No. 10934



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**ANNE D. SIMMONS**  
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