

COPY

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9 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**

10 **IN AND FOR THE COUNTY OF MARICOPA**

11 STATE OF ARIZONA, *ex rel.*
12 MARK BRNOVICH, Attorney General,

13 Plaintiff,

14 vs.

15 ADOBE CARPET CLEANING, LLC, an
16 Arizona limited liability company d/b/a
17 ADOBE CARPET CLEANING; ANTHONY
18 N. TAFOYA, in his individual capacity as
19 managing member of the limited liability
20 company; and ANTHONY N. TAFOYA and
JANE DOE TAFOYA, husband and wife,

Defendants.

Case No.: CV 2017-000537

**CIVIL COMPLAINT FOR INJUNCTIVE
AND OTHER RELIEF**

(Unclassified Civil)

21 Plaintiff, the State of Arizona, *ex rel.* Mark Brnovich, Attorney General ("the State")
22 alleges as follows:

23 **JURISDICTION AND VENUE**

24 1. The State brings this action pursuant to Arizona laws governing telephone
25 solicitations and the Arizona Consumer Fraud Act (the "ACFA"), Arizona Revised Statutes
26 ("A.R.S.") § 44-1521, *et seq.*, to prevent the unlawful acts and practices alleged in this

1 Complaint and to obtain other relief, including restitution, disgorgement of profits, civil
2 penalties, and the State's attorneys' fees and costs.

3 2. This Court has jurisdiction to enter appropriate orders, both prior to and following
4 a determination of liability under the ACFA.

5 3. Venue is appropriate in Maricopa County, pursuant to A.R.S. § 12-401.

6 **PARTIES**

7 4. Plaintiff, the State of Arizona, is authorized to bring this action pursuant to the
8 ACFA, A.R.S. § 44-1521, *et seq.*

9 5. Defendant Adobe Carpet Cleaning, LLC, d/b/a Adobe Carpet Cleaning, is an
10 Arizona limited liability company that sells carpet, upholstery, and tile and grout cleaning
11 services in the State of Arizona and whose principal place of business is in Phoenix, Arizona.

12 6. Defendant Anthony N. Tafoya is the owner and managing member of Defendant
13 Adobe Carpet Cleaning, and as such, with actual and/or constructive knowledge, approved,
14 endorsed, directed, ratified, controlled, or otherwise participated in the unlawful acts and
15 practices alleged herein.

16 7. "Defendants" collectively refers to Defendant Adobe Carpet Cleaning, LLC and
17 Defendant Anthony N. Tafoya, individually and in his marital community with Jane Doe
18 Tafoya, jointly and severally, and Jane Doe Tafoya, who is named for community property
19 purposes only.

20 **DEFENDANTS' BUSINESS PRACTICES**

21 8. Since at least 2011, Defendants directly, or through a third party telephone
22 solicitor, initiated telephone calls to Arizona consumers to provide, or arrange to provide, its
23 cleaning services in exchange for payment. In doing so, Defendants became "sellers" as defined
24 under A.R.S. § 44-1271(15) of the Arizona Telephone Solicitation Statute, A.R.S. § 44-1271, *et*
25 *seq.* ("ATSS").
26

1 9. Since at least 2011, Defendants directly, or through a third party telephone
2 solicitor, initiated telephone calls to Arizona consumers who had previously stated to Adobe
3 Carpet Cleaning, or the solicitor acting on its behalf, their desire to not further receive such
4 telephone calls.

5 10. Since at least 2011, Defendants directly or through a third party telephone
6 solicitor, from locations in Arizona, initiated telephone calls to telephone numbers in Arizona
7 that were entered into the national Do-Not-Call registry established by the Federal
8 Trade Commission ("FTC").

9 **CLAIM FOR RELIEF**

10 **Violations of the Arizona Telephone Solicitations Statute**

11 11. Defendants made outbound telephonic solicitations from Arizona without first
12 filing a verified registration with the Arizona Secretary of State, in violation of A.R.S. § 44-
13 1272.

14 12. Defendants made outbound telephonic solicitations from Arizona without first
15 obtaining a bond in the amount of one hundred thousand dollars (\$100,000) and filing a copy
16 with the Arizona State Treasurer, in violation of A.R.S. § 44-1274.

17 13. In violation of A.R.S. § 44-1278(B)(2), Defendants, directly or through a third
18 party acting on their behalf, repeatedly solicited Arizona consumers for its cleaning services,
19 despite the consumers' stated desires not to receive such further telephone calls, and without
20 compliance with A.R.S. § 44-1278(B)(2)(a)-(d).

21 14. In violation of A.R.S. § 44-1282, Defendants, directly or through a third party
22 acting on their behalf, repeatedly initiated intrastate telephone solicitations to telephone
23 numbers in Arizona when said telephone numbers were entered in the national do-not-call
24 registry established by the FTC.

1 **Violations of the Arizona Consumer Fraud Act**

2 Plaintiff re-alleges the prior allegations made in this Complaint as though fully set forth
3 herein.

4 15. Defendant's violations of A.R.S. § 44-1278(B)(2) are *per se* violations of the
5 ACFA, pursuant to A.R.S. § 44-1278(B).

6 16. Defendant's violations of A.R.S. § 44-1282 are *per se* violations of the Arizona
7 Consumer Fraud Act, under A.R.S. § 44-1282(C).

8 17. At all times relevant to this Complaint, Defendant acted willfully as defined in
9 A.R.S. § 44-1531.

10 **PRAYER FOR RELIEF**

11 The State respectfully requests that the Court:

12 18. Enjoin, restrain, and prohibit the Defendants, their officers, agents, servants,
13 employees, and attorneys and those persons in active concert or participation with them and any
14 successor entity or entities, whether by acquisition, merger or otherwise, from engaging in any
15 unlawful acts and practices alleged in this Complaint, and from doing any acts in furtherance of
16 such acts and practices, pursuant to A.R.S. § 44-1528;

17 19. Order Defendant to pay to the State civil penalties of no more than \$10,000 for
18 each willful violation of A.R.S. § 44-1278(B)(2), pursuant to A.R.S. § 44-1531;

19 20. Order Defendant to pay to the State civil penalties of no more than \$1,000 for
20 each willful violation of A.R.S. § 44-1282, pursuant to A.R.S. § 44-1282(C);

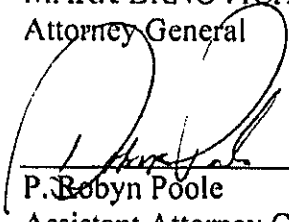
21 21. Order Defendant to disgorge any profits, gain, gross receipts or other benefit
22 obtained by means of any unlawful act or practice as alleged in this Complaint, pursuant to
23 A.R.S. § 44-1528(A)(3);

24 22. Order Defendant to pay the State its reasonable attorneys' fees and costs,
25 pursuant to A.R.S. § 44-1534; and

26 23. Order such other relief as the Court deems just and proper.

1 RESPECTFULLY SUBMITTED this 10th day of January, 2017.

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3 MARK BRNOVICH
4 Attorney General

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7 P. Robyn Poole
8 Assistant Attorney General
9 Attorneys for Plaintiff
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