IN THE COURT OF COMMON PLEAS, FRANKLIN COUNTY, OHIO
CIVIL DIVISION

STEVEN E. GREER
7029 Maidstone Drive
Port Saint Lucie, FL 34986
Phone (212) 945-7252
steve@greerjournal.com

Plaintiff

v.

CUNIX AUTOMOTIVE GROUP, LLC
d/b/a: The Toy Barn
5016 Post Rd
Dublin, OH, 43017-1116
Phone (614) 808-8065
jyoung@ralaw.com

Defendant

: Case No.:

: Judge:

COMPLAINT

(Jury Demand Endorsed Hereon)

THE PARTIES

Steven E. Greer, MD

1. Plaintiff Steven E. Geer ("Plaintiff") is an individual who lived in Franklin County, Ohio during the year 2022 when the Contract was formed with Defendant and damages occurred.

Cunix Automotive Group, LLC

2. Cunix Automotive Group, LLC, (dba) The Toy Barn, is a business in Franklin County, Ohio in the city of Dublin. Their address is 5016 Post Rd, Dublin, OH, 43017-1116.

3. The attorney representing Defendant is Jeremy Young of the firm Roetzel & Andress in Columbus, Ohio.

4. Defendant was conducting business in Ohio for all matters related to this case.

JURISDICTION

5. This Franklin County, Ohio court has personal jurisdiction per:

> **Section 2307.382 | Personal jurisdiction.**
> (A) A court may exercise personal jurisdiction over a person who acts directly or by an agent, as to a cause of action arising from the person's:
> (1) Transacting any business in this state;
> (2) Contracting to supply services or goods in this state;
> (3) Causing tortious injury by an act or omission in this state;

6. Defendant formed a Contract with Plaintiff in Ohio to do business in Ohio courts. Plaintiff was in Franklin County, Ohio when the damages occurred.

FACTS

7. Plaintiff was forced to abruptly leave Texas in January of 2022 to take care of his elderly father in Ohio who was suffering from Alzheimer's Disease. Plaintiff lived in a long-term-stay hotel in Dublin until January of 2023.

8. Plaintiff's father, Thomas Greer, had owned a 1979 classic Camaro Z28 since 1980. It had sitting idle been in a barn, deteriorating for decades.

9. Plaintiff bought the car and then planned to get it running again to use as a memory enhancement therapy for his father.

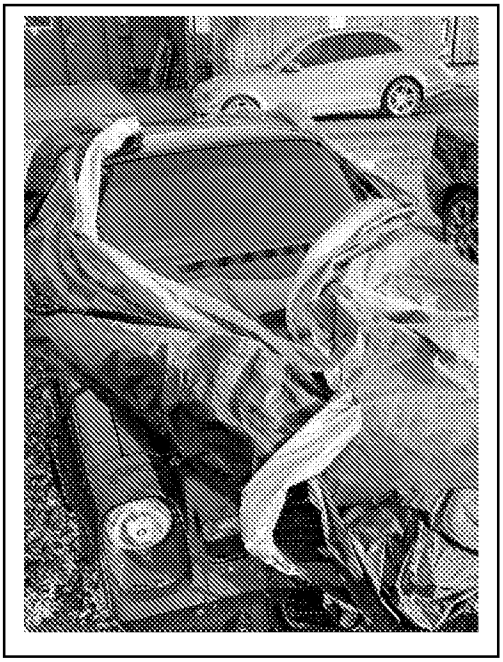
The Contract

10. Plaintiff hired The Toy Barn (the "d/b/a" name used by Cunix Automotive group, LLC) on November 5, 2021 to perform various repairs to his Camaro.

11. Plaintiff spoke with **Ron Shook**, The Toy Barn shop supervisor at the time, to discuss the necessary repairs.

12. After an initial inspection by Toy Barn mechanics, Mr. Shook estimated that the tune-up and other jobs would cost in the "$5,000 range". Plaintiff agreed and gave the approval to commence work.

The Breach of Contract



13. However, over the next year, very little work was completed on the car.

14. Plaintiff was upset at seeing his black car sitting in the hot sun baking on The Toy Barn parking lot. He delivered a car cover and placed it on the Camaro. Months later, the car was so neglected that the wind had torn the car cover to shreds. No one at The Toy Barn seemed to notice (see photo).

15. After numerous inquiries by Plaintiff, The Toy Barn finally began working on the car around May of 2022. The mechanic assigned was **Kyle Rumbaugh**.

16. Plaintiff visited the car on May 13, 2022 and had Mr. Rumbaugh start the car.

See video here https://youtu.be/btFVovCP19Y

17. While much more work was required, Plaintiff was pleased at the time with the work that was done. **Unbeknownst to him**, much of the work shown would soon fail, such as the fuel line and power windows.

18. At some point later in 2022, **The Toy Barn fired Ron Shook**. He was neglecting many other cars as well, Mr. Rumbaugh told Dr. Greer.

19. Ron Shook never asked Plaintiff for payment throughout this prolonged process of more than a year. Meanwhile, a bill had been accruing, which ballooned into a nearly $16,000 invoice, which was far more than the estimate made by Mr. Shook (EX. 1).

20. It was not until December 20, 2022 that Mr. Greer received an initial invoice from The Toy Barn. **Chris Scott**, a sales manager, was now handling the job.

21. Plaintiff immediately paid the **$15,669.57 invoice** with a wire transfer from his Wells Fargo personal checking account (EX. 2). He fulfilled his obligations.

22. This transaction was part of a contract between Toy Barn and Steven Greer, an individual consumer, per definitions of the Consumer Sales Practices Act ("OCSPA") at R.C. 1345.01

> "Consumer transaction" means a sale, lease, assignment, award by chance, or other transfer of an item of goods, a service, a franchise, or an intangible, to an **individual** for purposes that are primarily personal, family, or household, or solicitation to supply any of these things.

23. After that large payment, Plaintiff went to retrieve his car on January 4, 2023 and received **another** surprise **invoice for $1,970.48** (EX. 3). Plaintiff paid this with his credit card in person at The Toy Barn. Dr. Greer felt he had no choice but to pay this second invoice in order to get his car back and was paying under duress.

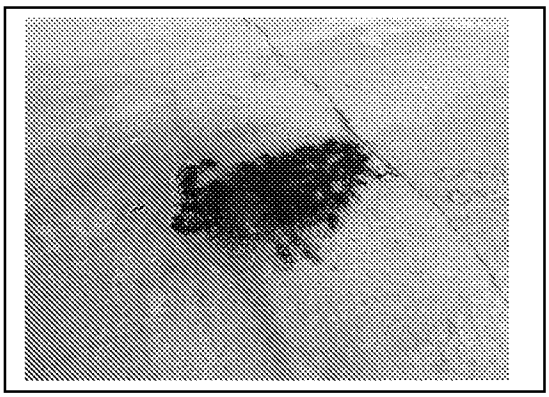
24. Therefore, Plaintiff used his credit card to pay, knowing that he would have more leverage by contesting the charge. Dr. Greer's credit card company was able to get this $1,970.48 refunded.

25. After retrieving the car from The Toy Barn, Mr. Greer had it examined and inspected by another automobile service provider, **Tim Neely**, the owner of Performance Auto Spa. Mr. Neely was shocked to learn what Plaintiff paid for the shoddy work. He told Plaintiff that the Camaro had not received $17,640.05 worth of usable work.

26. **Mr. Neely is a car expert** and has his own sizable collection of classic cars. He performed a tour of the car on video. In it, he detailed the work that should have been done and was not, as well has points out the shoddy work.

See video here https://youtu.be/m-7LObf9pf4

27. Plaintiff then transferred the Camaro to a storage facility nearby. The owner of the storage facility, Jonathan Slark, also has a classic car collection of Ferraris, etc. Since the Camaro has been at Mr. Slark's facility, the gas line or carburetor, it is unclear which, has sprung a leak (see photo of gasoline on the floor, below) and the power windows no longer work. The brand new tires with under 100-miles on them also do not hold a seal and deflate every few days (see left front tire, below).



Video of power windows not working and center console not repaired properly

https://youtu.be/hkA6k13tlzs

https://youtu.be/s5Mop7vYPMM

The Inflated Hourly Fees

28. The Toy barn billed Plaintiff at the exorbitant rate of $290 per hour, which is at least three-times the going rate in Central Ohio.

29. For example, Dr. Greer asked his Mercedes dealership, Mercedes-Benz of Easton, what their mechanic rate was. They charge only $111 per hour for comparable work that was done to the Camaro (i.e., tune-up, etc.).

30. **Plaintiff is an expert at finance and valuation**. His college degree is in finance. He began a career in Wall Street in the year 2000 (after medical school and surgery training) at prestigious New York banks working as an analyst, building financial models of companies.

31. To estimate what the Toy Barn invoice should have been if the hourly rate was only $111 instead of $290, and the failed work was deducted entirely, he created a spreadsheet.

32. Being generous to the Toy Barn, the total invoice should have been only $5,741.

33. Plaintiff paid Toy Barn $15,669.47 for the first invoice (with the second payment being refunded, it is not factored in now).

34. Therefore, **Plaintiff is owed a refund of $9,928.47**

35. Plaintiff has also paid his lawyer, Shawn Dingus, $2,000 to draft a letter to Toy Barn.

36. Therefore, **Plaintiff is owed a total of at least $11,928.47** plus interest.

The Letter Demand

37. Plaintiff had his lawyer send a letter demand to Toy Barn in April of 2023 (EX. 4). **It was ignored with hubris.** Plaintiff called the Toy Barn and was assured by **Joseph Casa** that this dispute would be settled. However, months went by and no one ever contacted Plaintiff's lawyer.

38. In October of 2023**, six months later**, did Toy Barn's lawyer, Jeremy Young, finally make a settlement offer, but for far too low of an amount and Plaintiff rejected the offer.

COUNT I: BREACH OF CONTRACT

39. Plaintiff incorporates all of the foregoing allegations as if fully rewritten and further states that, as the direct and proximate result of Defendant's breach of contract, Plaintiff suffered damages.

40. "To prove a breach of contract claim, a plaintiff must show "the existence of a contract, performance by the plaintiff, breach by the defendant, and damage or loss to the plaintiff." *Nilavar,* supra, at 483, 738 N.E.2d 1271, quoting *Doner v. Snapp* (1994), 98 Ohio App.3d 597, 600, 649 N.E.2d 42." *Kenty v. Transamerica Premium Ins. Co.*, 72 Ohio St. 3d 415, 650 N.E.2d 863, 1995 Ohio 61 (1995).

41. A contract was formed between Defendant and Plaintiff when the Camaro was assessed by Toy Barn staff, an estimated cost of $5,000 was offered to Plaintiff, Plaintiff agreed, and Defendant took possession of the Camaro to do the work. Plaintiff also paid two different invoices promptly and in full, thus fulfilling the contract.

42. **Defendant breached the contract by not providing the agreed upon work**. Instead, they delivered shoddy work that failed, and **charged far more than was estimated in the contract**.

43. Plaintiff never agreed to an hourly rate of $290.

44. Plaintiff should not have assumed that the hourly rate would be $290 since it is three-times the rate of even a Mercedes-Benz dealership.

45. Plaintiff paid the $15,669.47 because he was unaware at the time that the work was far costlier than it should have been, and that much of the work would promptly fail. It was only when car experts later evaluated the car that Plaintiff learned he was hustled.

46. Plaintiff is owed a refund of at least $9,928.47 for the work that failed and was overcharged.

COUNT II: CSPA VIOLATION – UNFAIR OR DECEPTIVE ACT

47. Plaintiff incorporates all of the foregoing allegations as if fully rewritten and further states that the Defendants committed an unfair and deceptive act in its consumer transaction with Plaintiff in violation of R.C. §1345.02.

48. Specifically, Defendants represented to Plaintiff that they would assign a competent mechanic to the Camaro job who understood carbureted engines, could repair electrical problems, etc. They did not do so.

49. **Mechanic Kyle Rumbaugh had little to no experience on such classic cars** as Plaintiff's 1970 Camaro and was learning on the job. The rate of $290/hr implied he was a master craftsman who restores cars for Pebble Beach *Concours d'Elegance*.

50. Also, the manager of the repair shop, **Ron Shook, was fired for incompetence**.

51. Therefore, Defendant violated the R.C. §1345.02(B) elements of, "1) That the subject of a consumer transaction has…performance characteristics…or benefits that it does not have".

52. As a result of Defendants' violation of §1345.02, Plaintiff has suffered actual economic damage of $9,928.47, that being the difference between the price he paid for the repair work and its actual fair market value at the time of the transaction, as well as mental anguish and emotional distress.

53. The CSPA allows Plaintiff to recover three times those actual damages.

COUNT III: CSPA VIOLATION –UNCONSCIONABLE ACT

54. Plaintiff incorporates all of the foregoing allegations as if fully rewritten and further states that the Defendants committed an unconscionable act in its consumer transaction with Plaintiff in violation of R.C. ¶1345.03.

55. Specifically, Defendant knew at the time of the transaction that the price charged and paid for the Camaro repair work was substantially in excess of its actual value, based on the going rate of similar car repair shops.

56. Therefore, Defendant violated the R.C. §1345.03(B)(2) element, "(2) Whether the supplier knew at the time the consumer transaction was entered into that the price was substantially in excess of the price at which similar property or services were readily obtainable in similar consumer transactions by like consumers;"

57. Further, the Defendant knowingly made misleading statements of opinion on the estimation of costs and timing for the repair work, which Plaintiff relied on in deciding to hire Defendant. Toy Barn knew that they could not make the repairs in a timely fashion because they had other cars sitting for long periods of time. Defendant knew their shop manager, Ron Shook, could not get the job done because they soon fired him for incompetence. Defendant knew that Kyle Rumbaugh lacked the training to work on a classic Camaro with a carbureted engine.

58. Therefore, Defendant violated the R.C. §1345.03(B)(3) element, "Whether the supplier knew at the time the consumer transaction was entered into of the inability of the consumer to receive a substantial benefit from the subject of the consumer transaction;"

59. Further, the Defendant made a one-sided transaction by taking possession of the Camaro knowing that Plaintiff could not easily retake possession without paying them whatever they charged.

60. Therefore, Defendant violated the R.C. §1345.03(B)(5) element, "(5) Whether the supplier required the consumer to enter into a consumer transaction on terms the supplier knew were substantially one-sided in favor of the supplier;"

61. Further, Defendant refused to refund Plaintiff for the first invoice when their own bank admitted that the second invoice should have been refunded.

62. Therefore, Defendant violated the R.C. §1345.03(B)(7) element, "Whether the supplier has, without justification, refused to make a refund in cash or by check for a returned item that was purchased with cash or by check, unless the supplier had conspicuously posted in the establishment at the time of the sale a sign stating the supplier's refund policy."

63. As a result of Defendant's violation of §1345.03, Plaintiff has suffered actual economic damage of $9,928.47, that being the difference between the price he paid for the repair work and its actual fair market value at the time of the transaction, as well as mental anguish and emotional distress.

64. The CSPA allows Plaintiff to recover three times those actual damages.

COUNT IV: INTENTIONAL MISREPRESENTATION; FRAUD

65. Plaintiff incorporates all of the foregoing allegations as if fully rewritten and further states that the Defendant intentionally represented to the Plaintiff that their mechanics were trained to work on a classic Camaro and could do so in a reasonable timeframe, knowing, or having reason to know, that such a representation was false with the intent to mislead the Plaintiff in completing the consumer transaction.

66. In fact, the manager of the repair shop, Ron Shook, was fired for incompetence and fraud. In fact, mechanic Kyle Rumbaugh had never worked on a classic Camaro before.

67. Plaintiff justifiably relied on Defendant's representations in deciding to hire Defendant. Defendant acted with malice, and with aggravated and egregious fraud in its dealings with Plaintiff.

68. As a direct and proximate result of Defendants' intentional misrepresentations and fraudulent actions, Plaintiff suffered actual economic damage of $9,928.47, that being the difference between the price he paid for the repair work and its actual fair market value at the time of the transaction, as well as mental anguish and emotional distress.

COUNT V: NEGLIGENT MISREPRESENTATION

69. Plaintiff incorporates all of the foregoing allegations as if fully rewritten and further states that the Defendants failed to exercise reasonable care in supplying false information to the Plaintiff that their repair shop had qualified staff, upon which he justifiably relied on in deciding to hire Defendant.

70. In the case of *Delman v. City of Cleveland Heights*, 41 Ohio St. 3d 1, 534 N.E.2d 835 (1989), "The elements of negligent misrepresentation are as follows: "One who, in the course of his business, profession or employment, or in any other transaction in which he has a pecuniary interest, **supplies false information for the guidance of others in their business transactions**, is subject to liability for pecuniary loss caused to them **by their *justifiable reliance* upon the information**, if he **fails to exercise reasonable care** or competence in obtaining or communicating the information. "(Emphasis added.) 3 Restatement of the Law 2d, Torts(1965) 126-127, Section 552(1), applied by this court in *Gutter* v. D*ow Jones, Inc.* (1986), 22 Ohio St. 3d 286, 22 OBR 457, 490 N.E.2d 898, and *Haddon View Investment Co.* v. *Coopers & Lybrand*(1982), 70 Ohio St. 2d 154, 24 O.O. 3d 268, 436 N.E.2d 212.

71. Specifically, as detailed above in Counts I though IV, the false information supplied by Defendant included a lowball estimate, claims of skills by Toy Barn mechanics that did not exist, claims of timeliness of the repair, and failure to disclose that Ron Shook was a bad employee who was already harming other vehicles before Plaintiff brought his in for repair.

72. As a direct and proximate result of Defendant's negligent actions, Plaintiff suffered actual economic damage of $9,928.47, that being the difference between the price he paid for the repair work and its actual fair market value at the time of the transaction, as well as mental anguish and emotional distress.

JURY DEMAND

73. Plaintiff demand a jury trial of eight jurors.

REQUEST FOR RELIEF

WHEREFORE, Plaintiff demands judgment against both Defendants as follows:

1. On **Count I (Breach of Contract)**, Plaintiff demands judgment in his favor in the amount of his actual economic damages (no less than $10,000) plus interest, plus $5,000.00 for his noneconomic damages, and his attorney fees and costs incurred in the prosecution of this action.

2. On **Count II (CSPA Violation- Unfair or Deceptive Act)**, Plaintiff demands judgment in his favor, per R.C. §1345.09, in the amount of three times his actual economic damages (no less than $27,000) plus interest, plus $5,000.00 for his noneconomic damages, and his attorney fees and costs incurred in the prosecution of this action.

3. On **Count III (CSPA Violation- Unconscionable Act)**, Plaintiff demands judgment in his favor, per R.C. §1345.09, in the amount of three times his actual economic damages (no less than $27,000) plus interest, plus $5,000.00 for his noneconomic damages, and his attorney fees and costs incurred in the prosecution of this action.

4. On **Count IV (Intentional Misrepresentation, Fraud)**, Plaintiff demands judgment in his favor for compensatory damages for his actual economic damages (no less than $10,000) plus interest, along with his attorney fees and costs incurred in the prosecution of this action.

5. On **Count V (Negligent Misrepresentation)**, Plaintiff demands judgment in his favor for compensatory damages, for his actual economic damages (no less than $10,000), along with his attorney fees, and costs incurred in the prosecution of this action.

Respectfully submitted,

Steven Greer

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