

STATE OF VERMONT
WASHINGTON COUNTY, SS.

STATE OF VERMONT,)
Plaintiff,)
)
v.) Washington Superior Court
) Docket No. Wncv
MEREDITH SEVIGNY,)
Defendant.)

COMPLAINT

NOW COMES the State of Vermont, by and through Vermont Attorney General William H. Sorrell, and pursuant to the Vermont Consumer Fraud Act, 9 V.S.A., Chapter 63; and the Vermont lead law, 18 V.S.A., Chapter 38; hereby makes the following Complaint against Vermont registered home child care provider Meredith Sevigny, (“Defendant”).

ALLEGATIONS

Parties

1. Defendant Meredith Sevigny is a registered home child care provider who operates a child care facility at her rented apartment at 12 Vermont Route 15 in West Danville, Vermont.
2. The Attorney General has the right to appear in any civil action in which the State, in his judgment, has an interest. 3 V.S.A. § 157.
3. The Attorney General has an interest in ensuring that documents filed with the State of Vermont, including EMP compliance statements, are truthful and accurate.
4. The Attorney General has an interest in the prevention of childhood lead poisoning.

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Statutory Scheme

5. Lead-based paint in housing, the focus of the lead law, is a leading cause of childhood lead poisoning, which can result in adverse health effects, including decreases in IQ.
6. The lead law requires that essential maintenance practices (“EMPs”) specified in 18 V.S.A. § 1759 be performed at all child care facilities built prior to 1978.¹
7. All paint in pre-1978 child care facilities is presumed to be lead-based unless a certified inspector has determined that it is not lead-based. 18 V.S.A. § 1760(a).
8. EMPs include, but are not limited to, installing window well inserts, visually inspecting properties at least annually for deteriorated paint, restoring surfaces to be free of deteriorated paint within 30 days after such paint has been visually identified or reported to the owner, and posting lead-based paint hazard information in a prominent place. 18 V.S.A. § 1759(a)(2), (4) and (7).
9. The lead law also requires an owner of the premises where a pre-1978 child care facility is located to file a compliance statement attesting to EMP performance with the Vermont Department of Health, with the owners’ insurance carrier, with the Department for Children and Families (“DCF”), and with the tenant of the facility, if any. 18 V.S.A. § 1759(c).
10. The Vermont Consumer Fraud Act, 9 V.S.A Chapter 63, prohibits unfair and deceptive acts and practices in commerce.

¹ For purposes of the lead law “child care facility” means “a child care facility or family child care home as defined in 33 V.S.A. § 4902 that was constructed prior to 1978. 18 V.S.A. § 1751(b)(3)

Facts Relating to Defendant

11. The property at 12 Vermont Route 15 in West Danville, Vermont (hereinafter “the property”) was built prior to 1978.
12. Defendant, a tenant at the property, operates a child care facility at the property registered with the Child Development Division of DCF.
13. On May 27, 2009, the Child Development Division received a copy of an EMP compliance statement from Defendant (hereinafter “the compliance statement”). Attachment A (EMP compliance statement dated April 1, 2009). The statement was forwarded to the Department of Health and received on May 29, 2009. *Id.*
14. The compliance statement represents the property to be in compliance with the lead law, and purports to have been signed by “K. Sevigny” and the owner of the property, Jeff Downs. *Id.*
15. DCF staff visited the property and observed that the property was not in compliance with the lead law. Specifically, window well inserts had not been installed and notices concerning peeling paint had not been posted.
16. Defendant informed DCF staff that her mother, Kathy Sevigny, was EMP certified and that Kathy Sevigny had performed the EMP compliance work at the property.
17. DCF staff spoke with Kathy Sevigny and was advised that Kathy Sevigny did not perform an EMP inspection at the property. Kathy Sevigny also stated that the signature on the EMP compliance statement was not hers.
18. DCF met with landlord Jeff Downs, and he reviewed the EMP compliance statement and stated that he had not signed the statement.

19. Landlord Jeff Downs submitted a new EMP compliance statement to the Department of Health on June 23, 2009.

CAUSE OF ACTION – Consumer Fraud Act – False EMP Compliance Statement

20. The State of Vermont incorporates and realleges paragraphs 1 through 19 above.

21. The Vermont Consumer Fraud Act, 9 V.S.A., Chapter 63, prohibits unfair and deceptive acts and practices in commerce, which include misrepresentation of the EMP compliance of a property and the falsifying of a compliance statement filed with the State of Vermont.

22. By submitting the false EMP compliance statement with the State of Vermont and inaccurately representing that the property was in compliance with the lead law in order to operate a registered child care facility at the property, Defendant engaged in unfair and deceptive acts and practices in commerce in violation of the Consumer Fraud Act, 9 V.S.A. § 2453(a).

23. By submitting the false compliance statement to the State of Vermont and representing that a certified EMP inspector and the owner of the property had signed the EMP compliance statement, Defendant engaged in unfair and deceptive acts and practices in commerce in violation of the Consumer Fraud Act, 9 V.S.A. § 2453(a).

24. By knowingly operating a registered child care facility at a property where EMPs had not been performed, Defendant (1) placed children at an increased risk for lead poisoning; and (2) engaged in unfair and deceptive acts and practices in commerce in violation of the Consumer Fraud Act, 9 V.S.A. § 2453(a).

25. Violations of the Consumer Fraud Act are subject to a civil penalty of up to \$10,000.00 per violation. 9 V.S.A. § 2458(b)(1). Each day that a violation continues is a separate violation.

RELIEF SOUGHT

WHEREFORE, based on the allegations set forth above, the State respectfully asks the Court to award the following relief:

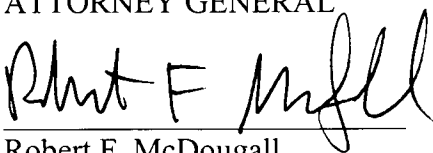
1. An Order finding that Defendant violated 9 V.S.A. § 2453(a).
2. Civil penalties of not more than \$10,000.00 for each violation of the Consumer Fraud Act.
3. An Order requiring reimbursement to the State for the reasonable value of its services and its expenses in investigating and prosecuting this action.
4. Such other relief as the Court may deem just and appropriate.

DATED at Montpelier, Vermont this 12th day of November, 2009.

Respectfully submitted,

WILLIAM H. SORRELL
ATTORNEY GENERAL

By:



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