

STATE OF NORTH CAROLINA
WAKE COUNTY

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
FILE NO. 23CV003699-910

STATE OF NORTH CAROLINA *ex rel.*)
JOSHUA H. STEIN, Attorney General,)
)
Plaintiff,)
)
)
v.)
)
ROGER DALE SIMMONS,)
a.k.a. ROGER DALE SIMMONS, JR.)
)
Defendant)

**TEMPORARY
RESTRAINING ORDER**

THIS MATTER came to be heard and was heard by the undersigned Judge presiding over the March 6, 2023 civil session of Wake County Superior Court upon Plaintiff State of North Carolina’s application for a Temporary Restraining Order under N.C. Gen. Stat. § 75-14. Plaintiff alleges that Defendant is an unlicensed general contractor operating a residential contracting scheme in the Triangle area. Specifically, Plaintiff alleges that Defendant, after collecting substantial payments from consumers for construction projects, fails to obtain the permits required to undertake the project, fails to have the work inspected by the permitting authority, and fails to complete the job. Plaintiff further alleges that work Defendant does do is shoddy, unsafe, and not up to code, and that the projects he leaves behind fail inspection, forcing the consumer to hire a new contractor who must tear down and redo much of the work.

Plaintiff requests that a Temporary Restraining Order be granted to prohibit Defendant from engaging in deceptive practices in violation of the North Carolina Unfair and Deceptive Trade Practices Act, N.C. Gen. Stat. § 75-1.1, *et seq.* Plaintiff asks that the Order prohibit Defendant from: (1) engaging in unfair and deceptive trade practices in violation of N.C. Gen. Stat. § 75-1.1;

(2) advertising, offering, soliciting, or entering into contracts with consumers for any contracting or home repair work, including accepting payment from consumers for any product or service; (3) performing any contracting or home repair work; and (4) transferring, withdrawing, concealing, disposing, or encumbering any of Defendant's assets without permission of the Court.

Special Deputy Attorney General Stuart M. (Jeb) Saunders appeared on Plaintiff's behalf at the appointed time for the hearing. Defendant was duly notified of the hearing.

It appears to the Court from the Complaint, and the affidavits and other exhibits filed in substantiation thereof, that there is a strong likelihood Plaintiff will prevail in this action. Specifically, it also appears to the Court that Plaintiff's request for a Temporary Restraining Order under N.C. Gen. Stat. § 75-14 should be granted so that further harm to the public and further violations of North Carolina law might be prevented.

IT IS THEREFORE ORDERED that Defendant and his businesses, officers, agents, employees, representatives, successors or assigns, and any persons acting in concert with or under the actual direction or control of Defendant, be and hereby are Temporarily Restrained and Prohibited from:

- a. engaging in unfair or deceptive acts or practices in violation of N.C. Gen. Stat. § 75-1.1, including but not limited to the acts and practices listed in Paragraph 40 of Plaintiff's Claim for Relief;
- b. advertising, offering, soliciting, or entering into contracts with consumers for any contracting or home repair work, including accepting payment from consumers for any product or service;
- c. performing any contracting or home repair work;
- d. transferring, withdrawing, concealing, disposing, or encumbering any of Defendant's assets without permission of the Court; provided, however, that permission shall not be required if Plaintiff agrees in writing to the expenditures.

IT IS FURTHER ORDERED that Defendant be required to produce the following records no later than three (3) days prior to the preliminary injunction hearing:

(1) A verified list of the names, addresses, phone numbers, and email addresses of all North Carolina consumers with whom Defendant has entered into an agreement for contracting work since January 1, 2019.

(2) The name and address of every bank at which Defendant maintains and has maintained for the past twelve (12) months checking, deposit, or other bank accounts, and the account number for each such account;

(3) A statement of the current monetary balance in each such account held by Defendant, together with a copy of the most recent bank statements for each such account, and bank statements for the past twelve (12) months for each such account;

(4) A current financial statement, showing Defendant's current assets and liabilities;
and

(5) A breakdown of accounts, if such accounts are segregated, showing what the accounts are for, e.g., whether the accounts are for payment of rent, payroll, or the like.

IT IS FURTHER ORDERED that Defendant appear before this Court at 10 o'clock a.m., March ____, 2023, in Courtroom 10-C of the Wake County Courthouse in Raleigh, North Carolina, if Defendant wishes to be heard on Plaintiff's application for a Preliminary Injunction.

SO ORDERED, this the 6th day of March, 2023 at _____ a.m.

Hon.
SUPERIOR COURT JUDGE