

**COMMONWEALTH OF KENTUCKY  
WARREN CIRCUIT COURT  
DIVISION \_\_\_\_\_  
CIVIL ACTION NO. 23-CI-\_\_\_\_\_**

**COMMONWEALTH OF KENTUCKY,** )  
*ex rel. DANIEL CAMERON,* )  
**ATTORNEY GENERAL,** )  
  
**Plaintiff,** )  
  
**vs.** )  
  
**BG TREEMAN, LLC,** )  
  
**BENJAMIN CARROLL LAMB** )  
  
**Defendants,** )  


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**JURY TRIAL DEMANDED**

**COMPLAINT**

Plaintiff, Commonwealth of Kentucky, by and through its Attorney General, Daniel Cameron, brings this civil enforcement action against BG Treeman, LLC (“BG Treeman”), and Benjamin Carroll Lamb (“Mr. Lamb”) (collectively, “Defendants”), for engaging in unfair, false, misleading, or deceptive business practices in violation of the Kentucky Consumer Protection Act (“KCPA”) and price gouging during a state of emergency.

**I. PARTIES, JURISDICTION, AND VENUE**

1. Plaintiff, the Commonwealth of Kentucky *ex rel.* Daniel Cameron, Attorney General is responsible for the enforcement and administration of Kentucky law, including the consumer protection laws set forth in Kentucky Revised Statutes Chapter 367. KRS 367.190 and KRS 367.378 authorize him to bring this action in the name of the Commonwealth, and he has determined it to be in the public interest to do so.

2. BG Treeman, LLC, is a tree service company with its principal office located at 7324 Nashville Road, Bowling Green, Kentucky 42101.

3. Benjamin Carroll Lamb is the principal owner and operator of BG Treeman, a role in which he has served at all times relevant to the events set forth in this Complaint. Upon information and belief, Benjamin Carroll Lamb is the sole member of BG Treeman.

4. This court has subject matter jurisdiction over the Commonwealth's claims pursuant to KRS 23A.010, 367.190, and 367.378. The Commonwealth's claims are in excess of any minimum dollar amount necessary to establish the jurisdiction of this Court.

5. This Court has personal jurisdiction over BG Treeman, LLC, because it is a Kentucky limited liability company organized under the laws of the Commonwealth of Kentucky.

6. This Court has personal jurisdiction over Benjamin Carroll Lamb because, upon information and belief, he is a resident of Bowling Green, Kentucky and a citizen of the Commonwealth of Kentucky. In the alternative, this Court has personal jurisdiction over Mr. Lamb pursuant to KRS 454.210 because he has regularly transacted or solicited business in the Commonwealth; or derived substantial revenue from goods used or consumed or services rendered in the Commonwealth; or contracted to supply goods or services in the Commonwealth; or caused injury by an act or omission in the Commonwealth.

7. Venue is proper in Warren County pursuant to KRS 452.460 because Defendants' have their principal place of business in Warren County and injuries to consumers occurred in Warren County. Venue is also proper pursuant to KRS 367.190(1) because Defendants' unlawful conduct in violation of Kentucky's prohibition against unfair, false, misleading, or deceptive business practices and price gouging during a state of emergency occurred in Warren County.

## II. BACKGROUND FACTUAL ALLEGATIONS

8. On December 11, 2021, the Governor of Kentucky issued Executive Order 2021-923, declaring a state of emergency in the Commonwealth in response to the December 10, 2021 natural weather disaster that generated rain, thunderstorms, tornadoes, and straight-line winds throughout the Commonwealth, causing death, injury, and damage to public and private properties. That same day, the Governor activated the Commonwealth's emergency price gouging laws at KRS 367.372, *et seq.*, by issuance of Executive Order 2021-924. Pursuant to KRS 367.374(a)(1), these laws went into effect for a fifteen day period, subject to the Governor's ability to extend the period for three additional fifteen day periods. KRS 367.374(2). On December 29, 2021, the Governor extended the price gouging order through Executive Order 2021-969. On January 13, 2022, the Governor signed into law House Joint Resolution 29, which extended Executive Order 2021-969 and declared that it would be in effect until and expire on April 14, 2022.

9. At all relevant times, Mr. Lamb was the principal owner and operator of BG Treeman and, upon information and belief, had authority to control its actions and either actively participated in the unlawful conduct detailed herein or was aware of it and did nothing to stop it.

10. Between December 11, 2021 and April 14, 2022, Defendants charged prices for tree removal services that were grossly in excess of the price prior to the declaration and unrelated to any increased cost to the seller, in violation of KRS 367.374(1)(b). BG Treeman's grossly excessive charges included, but were not limited to, grossly excessive charges for labor and equipment.

11. Defendants also committed numerous acts in violation of KRS 367.170(1)'s prohibition against "unfair, false, misleading, or deceptive" business practices, including, but not limited to, making misrepresentations about the hours worked, number of personnel involved,

equipment used, and the size and number of trees removed. Defendants made these misrepresentations in connection with payment demands submitted to consumers and their insurance carriers, including, but not limited to, making false statements on invoices and in subsequent communications sent to consumers and their insurance carriers.

12. Defendants misled consumers to enter into agreements for Defendants to provide tree removal services based on Defendants' misrepresentation that consumers would not be personally responsible for paying any charges not covered by insurance. However, if a consumer's insurance company refused to pay Defendants' invoice in full, Defendants attempted to coerce the consumer into paying the remaining balance from the consumer's personal funds by, *inter alia*, threatening to refer the consumer to a debt collector and place a lien on his or her property. Defendants even went so far as to send some consumers a document titled "Notice Of Intent To File A Lien" that purported to require the consumers to pay the entire balance of Defendants' invoice within "ten (10) days" to avoid having a lien placed on their homes and "loss of all or part of [their] property, and/or other significant legal consequences."

13. Defendants' victims included persons aged sixty (60) or older, and upon information and belief, Defendants knew, or should have known, that they were substantially more vulnerable than other members of the public.

14. Upon information and belief, Mr. Lamb either personally prepared BG Treeman's grossly excessive invoices, directed that the invoices contain grossly excessive charges, or was aware that BG Treeman was charging consumers grossly excessive prices and did nothing to stop it despite having the authority to control BG Treeman and prevent its unlawful conduct.

15. Upon information and belief, Mr. Lamb either personally prepared BG Treeman's invoices that contained false statements, directed that the false statements be placed in the invoice, or was aware that BG Treeman was sending invoices to consumers containing false statements and did nothing to stop it despite having the authority to control BG Treeman and prevent its unlawful conduct. Mr. Lamb also made false statements to consumers, and their insurance carriers, in the course of demanding payment for BG Treeman's invoices.

16. Mr. Lamb personally communicated with consumers and demanded that the consumers pay charges on BG Treeman's invoices that were not paid by the consumers' insurance company. Upon information and belief, Mr. Lamb either personally drafted the Notices Of Intent To File A Lien (the "Notices") sent to consumers, directed that the Notices be sent, or was aware that BG Treeman was sending the Notices and did not nothing to stop it despite having the authority to control BG Treeman and prevent its unlawful conduct.

17. All of Defendants' conduct described herein was committed willfully.

### **III. VIOLATIONS OF LAW**

#### **COUNT 1 THE KENTUCKY CONSUMER PROTECTION ACT KRS 367.170 (Against All Defendants)**

18. Plaintiff re-alleges and incorporates by reference all prior paragraphs of this Complaint.

19. Pursuant to KRS 367.170, "[u]nfair, false, misleading, or deceptive acts or practices

in the conduct of any trade or commerce are declared unlawful.”

20. Pursuant to KRS 367.190, “[w]henver the Attorney General has reason to believe that any person is using, has used, or is about to use any method, act or practice declared by KRS 367.170 to be unlawful, and that proceedings would be in the public interest, he may immediately move in the name of the Commonwealth in a Circuit Court for a restraining order or temporary or permanent injunction to prohibit the use of such method, act or practice.”

21. Pursuant to KRS 367.200, “[t]he court may make such additional orders or judgments as may be necessary to restore to any person in interest any moneys or property, real or personal, which may have been paid out as a result of any practice declared to be unlawful by KRS 367.130 to KRS 367.300....”

22. Pursuant to KRS 367.990(2), if the court finds a person is willfully violating or has willfully violated the KCPA, the Attorney General may recover a civil penalty on behalf of the Commonwealth of “not more than two thousand dollars (\$2,000.00) per violation, or where the defendant’s conduct is directed at a person aged sixty (60) or older, a civil penalty of not more than ten thousand dollars (\$10,000) per violation, if the trier of fact determines that the defendant knew or should have known that the person aged sixty (60) or older is substantially more vulnerable than other members of the public.”

23. By engaging in the conduct described above, including, but not limited to, inducing consumers to enter into agreements by falsely promising that Defendants would not attempt to hold consumers personally liable for any charges not covered by insurance and making misrepresentations in connection with payment demands submitted to consumers and insurance carriers, Defendants have committed violations of KRS 367.170.

24. As a direct result of Defendants’ violations of KRS 367.170, Defendants have

caused harm, loss, or injury to Persons<sup>1</sup> in the Commonwealth, including, but not limited to, depriving Persons of money and property by means of unfair, false, misleading, or deceptive business practices.

**COUNT 2**  
**PRICE GOUGING PROHIBITION**  
**KRS 367.374**  
**(Against All Defendants)**

25. Plaintiff re-alleges and incorporates by reference all prior paragraphs of this Complaint.

26. Pursuant to KRS 367.374(1)(b)(2), when the Governor has declared a state of emergency and implemented the prohibition against price gouging:

No person shall sell, rent, or offer to sell or rent, regardless of whether an actual sale or rental occurs, a good or service listed in this paragraph...for a price which is grossly in excess of the price prior to the declaration and unrelated to any increased cost to the seller. Goods and services to which this section applies are:

...

Goods or services used for emergency cleanup...

27. The term “services” means “work, labor, or services, including services furnished in connection with the sale or repair of goods or real property or improvements thereto.” KRS 367.372(12).

28. The tree removal services offered by Defendants were “[g]oods or services used for emergency cleanup[.]”

29. “‘Price prior to the declaration’ means the person's price for a good or service on

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<sup>1</sup> As defined in KRS 367.110 (1), “‘Person’ means natural persons, corporations, trusts, partnerships, incorporated or unincorporated associations, and any other legal entity.”

the day before the date of the Governor's order implementing the provisions of KRS 367.374.”  
KRS 367.372(10).

30. “If a person did not sell or rent or offer to sell or rent a good or service listed in [KRS 367.374(1)] prior to the Governor’s implementation of this section, the price at which a good or service was generally available in the area for which the declaration was issued shall be used in determining if the person is in violation of [KRS 367.374].” KRS 367.374(4).

31. KRS 367.378(1) provides that:

[a] willful violation of KRS 367.374 is punishable by a civil monetary penalty of an amount not to exceed five thousand dollars (\$5,000) for the first violation and an amount not to exceed ten thousand dollars (\$10,000) for each subsequent violation, with an aggregate total not to exceed twenty-five thousand dollars (\$25,000) for any twenty-four (24) hour period against any person who violates KRS 367.374. No additional civil monetary penalties may be imposed under this chapter for conduct prohibited by KRS 367.374.

32. Defendants violated KRS 367.374 when they charged grossly excessive prices for tree removal services, including grossly excessive charges for labor and equipment, unrelated to any increased costs to Defendants.

33. As a direct result of Defendants’ violations of KRS 367.374, Defendants have caused harm, loss, or injury to Persons in the Commonwealth, including, but not limited to, depriving Persons of money and property by means of price gouging.

#### **IV. PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiff, Commonwealth of Kentucky, by counsel, Attorney General



Daniel Cameron, requests that this Court:

- (a) Enter judgment against each Defendant in favor of Plaintiff for each violation alleged in this Complaint;
- (b) Enter a permanent injunction to prevent Defendants' future violations of law;
- (c) Award such equitable relief as the Court finds necessary to redress consumer injury resulting from Defendants' violations of the law including, but not limited to, disgorgement of ill-gotten gains;
- (d) Make such orders or render such judgments as may be necessary to restore to any Person any ascertainable losses, including statutory and pre-judgment interest, suffered by reason of the alleged violations of law;
- (e) For each and every violation of the KCPA, order each Defendant to separately pay civil penalties to the Commonwealth of Kentucky of not more than \$2,000 per violation of the KCPA, or \$10,000 per violation of the KCPA where Defendants' conduct was directed at a person aged sixty (60) or older and substantially more vulnerable than other members of the public, as provided by KRS 367.990(2);
- (f) For each and every violation of KRS 367.374, a civil monetary penalty of an amount not to exceed five thousand dollars (\$5,000) for the first violation and an amount not to exceed ten thousand dollars (\$10,000) for each subsequent violation, with an aggregate total not to exceed twenty-five thousand dollars (\$25,000) for any twenty-four (24) hour period;
- (g) Award the Commonwealth of Kentucky its costs and attorneys' fees;
- (h) Award the Commonwealth of Kentucky prejudgment interest as permitted by law;
- (i) Award any and all such further relief as the Court deems just and proper.

Plaintiff demands trial by jury on all issues so triable.

Respectfully submitted,

DANIEL CAMERON  
ATTORNEY GENERAL



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