

**UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISION**

Gale Force Roofing and
Restoration, LLC, *et al.*,

Plaintiffs,

v.

Julie I. Brown,
in her official capacity as Secretary of
the Florida Department of Business and
Professional Regulation,

Defendant.

Case No. 4:21-cv-00246-MW-MAF

**DEFENDANT’S ANSWER TO
GALE FORCE ROOFING AND RESTORATION, LLC’S
FIRST AMENDED COMPLAINT**

Defendant Julie I. Brown, in her official capacity as Secretary of the Florida Department of Business and Professional Regulation, provides her Answer to Plaintiff Gale Force Roofing and Restoration, LLC’s First Amended Complaint for Injunctive and Declaratory Relief. *See* ECF No. 19.

In response to Gale Force’s opening, unnumbered paragraph, admitted that Gale Force has sued the Secretary of the Florida Department of Business and Professional Regulation, but denied that the Act violates the United States Constitution and further denied that Gale Force is entitled to any relief whatsoever.

1. The Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph, so they are denied.

2. The Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph, so they are denied.

3. The Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph, so they are denied.

4. Admitted that the HB 7065 was enacted into law. The Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in this paragraph, so they are denied.

Florida's [] Act

5. Admitted that Chapter 2021-77, Laws of Florida ("the Act") was enacted into law and took effect on July 1, 2021. As to the remaining allegations, the text of the Act speaks for itself, and the Defendant denies any allegations or characterizations inconsistent with the text of the Act.

6. The quoted statements of Florida's lawmakers speak for themselves. The remaining allegations in this paragraph are denied, including Gale Force's characterizations of the quoted statements.

7. The statements of Florida's lawmakers speak for themselves. The remaining allegations in this paragraph are denied, including Gale Force's characterizations of the quoted statements.

8. The text of the Act speaks for itself, and the Defendant denies any allegations or characterizations inconsistent with the text of the Act. The remaining allegations in this paragraph are denied.

9. Denied.

10. The text of the Act speaks for itself.

11. The allegations in this paragraph are legal conclusions and are not subject to denial or admission.

12. The allegations in this paragraph are legal conclusions and are not subject to denial or admission.

13. The Defendant admits only that the Act defines the terms referenced, but denies Gale Force's characterizations of those definitions as well as any remaining allegations.

14. Denied.

15. The text of the Act speaks for itself, and the Defendant denies any allegations or characterizations inconsistent with the text of the Act. The remaining allegations in this paragraph are legal conclusions and are not subject to denial or admission.

16. Denied.

17. Denied.

18. Denied.

19. Denied.

20. Denied.

21. Denied that the Act violates any law and further denied that Gale Force is entitled to any relief whatsoever.

Jurisdiction

22. Admitted that the Court has subject matter jurisdiction.

23. The allegations in this paragraph are legal conclusions and are not subject to denial or admission, but the Defendant denies that Gale Force is entitled to the relief sought.

24. The allegations in this paragraph are legal conclusions and are not subject to denial or admission, but the Defendant denies that the enforcement of the Act would violate the Constitution.

25. Denied.

26. The Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph, so they are denied.

Gale Force's Business

27. Admitted that Gale Force encourages homeowners to file insurance claims. The Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in this paragraph, so they are denied.

28. The Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph, so they are denied.

29. The allegations in the first sentence of this paragraph are denied. The Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in this paragraph, so they are denied.

30. The Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph, so they are denied.

31. The Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph, so they are denied.

32. The cited provision of the Florida Statutes speaks for itself. The Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in this paragraph, so they are denied.

33. The Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph, so they are denied.

34. The text of the Act speaks for itself, and the Defendant denies any allegations or characterizations inconsistent with the text of the Act, including that the Act prohibits advertisements generally.

35. The Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph, so they are denied.

36. The Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph, so they are denied.

37. The Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph, so they are denied.

38. The Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph, so they are denied.

39. Denied.

40. Denied.

41. The Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph, so they are denied.

42. The Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph, so they are denied. The Defendant further denies that the Act is unlawful and that Gale Force is entitled to any relief whatsoever.

43. Admitted only that the Act applies to contractors that are licensed under Chapter 489, Florida Statutes. The statements of Florida's elected officials speak for themselves, but the Defendant denies Gale Force's characterization of those statements and of the Act. All remaining allegations in this paragraph are denied.

Venue

44. Admitted.

Parties

45. Admitted that Gale Force is licensed by the Florida Department of Business and Professional Regulation. The Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in this paragraph, so they are denied.

46. Admitted only that the Florida Department of Business and Professional Regulation has authority to enforce Section 1 of the Act and that it has jurisdiction to begin disciplinary proceedings against contractors. Otherwise, denied.

47. Admitted only that the Defendant has authority to investigate and enforce the challenged provisions of the Act. Otherwise, denied.

48. Denied.

49. Admitted only that Gale Force has sued the Secretary in her official capacity. Otherwise denied.

50. The Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph, so they are denied.

51. Admitted.

COUNT I
(42 U.S.C. § 1983)
Violation of First Amendment Rights

52. The Defendant incorporates by reference the foregoing responses to the allegations in paragraphs 1-51 as if fully set forth herein.

53. Denied.

54. Denied.

55. The caselaw cited in this paragraph speaks for itself, and the Defendant denies that the Act is unconstitutional under the authorities cited. Any remaining allegations are denied.

56. The caselaw cited in this paragraph speaks for itself, and the Defendant denies that the Act is unconstitutional under the authorities cited. Any remaining allegations are denied.

57. The text of the Act speaks for itself, and the Defendant denies Gale Force's interpretation and characterization of the Act.

58. Denied.

WHEREFORE: the Defendant denies that the Act violates the United States Constitution, and further denies that Gale Force is entitled to any relief whatsoever.

AFFIRMATIVE DEFENSES

1. Unclean Hands: Defendant asserts the affirmative defense of unclean hands to the extent that the Plaintiff (or Plaintiff's employees or agents)

represented to Florida homeowners or induced Florida homeowners into believing that the Plaintiff served as a “public adjuster,” as defined in section 626.854(1) of the Florida Statutes.

Respectfully submitted by:

/s/ Edward M. Wenger _____
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*Counsel for Defendant
Secretary Julie I. Brown*

Dated: August 20th, 2021

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was served to all counsel of record through the Court's CM/ECF system on August 20, 2021.

/s/ Edward M. Wenger
Edward M. Wenger