

Cause No. 17-0622-C26

ASHLEY LUCE	§	IN THE DISTRICT COURT OF
	§	
v.	§	WILLIAMSON COUNTY, TEXAS
	§	Williamson County - 26th Judicial District Court
PEDERNALES ELECTRIC COOPERATIVE, INC.	§	_____ JUDICIAL DISTRICT

**PLAINTIFF'S ORIGINAL PETITION AND REQUESTS FOR DISCLOSURE**

COMES NOW, ASHLEY LUCE, Plaintiff herein, by and through her attorney, and files Plaintiff's Original Petition, and alleges as follows:

**INTRODUCTION**

I.

"Chutzpah" is a Yiddish word that is usually translated as unmitigated gall. The traditional example of chutzpah involves the young man who murders his parents then pleads to the court for mercy because he is an orphan. In its outrageous treatment of the Plaintiff, as described below, Defendant has provided us a modern example of the ancient word.

II.

Plaintiff is proceeding under discovery Level 2.

III.

Plaintiff seeks monetary relief of more than \$200,000, including all damages, pre-judgment interest, and costs of court, but less than \$1,000,000.

**PARTIES**

IV.

Plaintiff, Ashley Luce, is a single mother of four school age children. During the incidents that form the basis of this law suit, Plaintiff was residing with her children at.

which is located in Williamson County, Texas. At all times herein relevant, Plaintiff was a customer of Defendant, Pedernales Electric Cooperative, Inc.

V.

Defendant, Pedernales Electric Cooperative, Inc., is a non-profit corporation organized as an electrical cooperative. As such, all of its customers, including the Plaintiff, are also members of the Cooperative. Defendant can be served with process by serving its registered agent, C T Corporation System, 1999 Bryan St., Ste 900, Dallas, Texas 75201.

**FACTS**

VI.

On her June 28, 2016 utility bill from Defendant, Plaintiff noticed that a person by the name of Joseph Weeks was listed under her name in the customer column. Plaintiff did not know anyone named Joseph Weeks so she called Defendant seeking an explanation. The employee who answered advised the Plaintiff that Mr. Weeks was her husband. Plaintiff denied that Mr. Weeks was her husband. Plaintiff's employee insisted that Mr. Weeks was the Plaintiff's husband. Plaintiff, who is singularly knowledgeable of her own marital status, repeatedly stated that she was not married to Mr. Weeks and, in fact, did not know Mr. Weeks.

VII.

Plaintiff then asked Defendant's employee how Mr. Weeks' name came to be placed on her bill. The employee explained that a person identifying himself as Mike Luce had called Defendant's office, stated that he was Plaintiff's husband and requested the balance on her account. However, the employee advised Mr. Luce that she could

not provide him with any information because she was unable to validate his name in her data base.

VIII.

The caller then stated his name was actually Joseph Luce. Defendant's employee was unable to validate that name either.

IX.

Finally, the caller said that his name was Joseph Weeks, which name the employee was able to validate. Defendant's employee then gave this person, who had used two false names, all Ms. Luce's personal information, including her social security number, date of birth, home address and past due account balance.

X.

Plaintiff was shocked to learn that the Defendant had not only released her most private information to a stranger, but to a stranger who obviously had falsely claimed to be her husband. Plaintiff asked Defendant's employee for the man's telephone number or a recording of the telephone call so that she could try to obtain his true identify. In a modern example of chutzpah, Defendant's employee refused claiming that Defendant had a legal responsibility to protect the stranger's privacy.

XI.

After Defendant revealed Plaintiff's information to Joseph Weeks a number of frightening events occurred at Plaintiff's house.

XII.

On or about July 10, 2016, someone tried to enter the bedroom window to Plaintiff's daughter's room.

XIII.

Then, in mid September someone removed and cut the screen to Plaintiff's bedroom and two screen to the living room and entered the house's storage room.

XIV.

At the end of November, an unknown person cut the back screen and left a threatening note that read: "Ashley. I know where you live. You can't hide from me !!!"

XV.

About a week later, someone knocked on the door of the house but suddenly disappeared when the door was answered. However, that person left a second threatening note that read: "We know where you are. You can't hide from us!"

XVI.

Plaintiff's ex-husband has been incarcerated for several years because of a sexual assault conviction. Because of his virulent nature, Plaintiff intentionally kept her location secret from him. If Plaintiff's ex-husband wanted to communicate with Plaintiff, he would send a letter to his mother who would deliver it to Plaintiff. However, less than two months after Defendant revealed Plaintiff's private information, Plaintiff received a letter from her ex-husband that was mailed to her home address, the same address that Defendant gave to Mr. Weeks.

XVII.

Because of the repeated threatening acts, Plaintiff's young children developed a fear of being separated from their mother. Finally, at the end of November Plaintiff withdrew them from their respective schools.

XVIII.

Following each of the threatening acts, Plaintiff contacted the local police. Eventually, she was able to file a criminal charge of stalking against the unidentified perpetrator.

XIX.

Prior to the incidents, Plaintiff had been working at a day care. However, upon learning that Plaintiff was being stalked, her employer released her from work. Since her termination, Plaintiff has been unable to find employment.

XX.

Plaintiff and her children were frightened to continue living at a location that was known to her ex-husband and also to the unknown person who was terrorizing them; but Plaintiff lacked the resources to move. Finally, a few days before Christmas of 2106, Plaintiff received financial assistance from the Crime Victim's Compensation Fund which enabled her and her family to move to a different location which was unknown both to her ex-husband and to the man who had been terrorizing them. However, because of her lack of income, Plaintiff has had difficulty paying the rent and has been threatened with eviction.

## **Causes of Action**

XXI.

### **Breach of Fiduciary Duty**

Defendant promises its members, including Plaintiff, that it "respects the privacy and confidentiality of member information" and agrees to strictly limit the distribution of that information. Defendant breached its fiduciary duty to Plaintiff by disseminating her private information which caused the harm described above.

XXII.

### **DTPA**

As alleged herein, Defendant has in the course of trade and commerce engaged in false, misleading and deceptive acts and practices in violation of sections 17.46(a) and (b) of the Texas Deceptive Trade Practices Act (DTPA) in the following respects:

1. By falsely promising to protect the Plaintiff's private information, Defendant represented that its goods and services had characteristics, uses or benefits which they did not have, in violation of section 17.46(b)(5) of the DTPA.
2. By falsely promising to protect the Plaintiff's private information, Defendant represented that an agreement conferred or involved rights, remedies or obligations which it did not have or involve, or which are prohibited by law, in violation of section 17.46(b)(12) of the DTPA.

XXIII.

Defendant has engaged in an unconscionable action or course of action in that it has committed an act or practice which, to Plaintiff's detriment, took advantage of her lack of knowledge, ability, experience, or capacity to a grossly unfair degree in violation of Section 17.50(a)(3) of the DTPA.

XXIV.

Defendant acted knowingly and intentionally in engaging in these DTPA violations entitling Plaintiff to recover her damages for mental anguish plus treble damages.

XXV.

Plaintiff seeks reasonable attorney fees.

XXVI

**Negligence**

Defendant had a duty not to reveal Plaintiff's private information. Defendant was negligent in breaching that duty which proximately caused the harm described above.

WHEREFORE, PREMISES CONSIDERED, Plaintiff requests that on final hearing the Court enter judgment for Plaintiff, grant Plaintiff prejudgment and post-judgment interest and such additional relief as may appear fair and just.

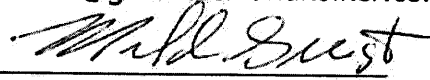
XXVII.

**REQUESTS FOR DISCLOSURE**

Pursuant to Rule 194, you are requested to disclose, within 50 days of the service of this request, the information or materials described in Rule 194.2 TRCP.

Respectfully submitted,

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