

STATE OF INDIANA ) IN THE MARION COUNTY SUPERIOR COURT  
 ) SS:  
 COUNTY OF MARION ) CAUSE NO. \_\_\_\_\_

STATE OF INDIANA, )  
 )  
 Plaintiff, )  
 )  
 v. )  
 )  
 MEXICAN CIVIC ASSOCIATION )  
 OF INDIANA, INC. )  
 and M. ESTHER BARBER, )  
 individually and doing business )  
 as Asociacion Civica Mexicana De )  
 Indiana, Inc., )  
 )  
 Defendant. )

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**FILED**  
 MAR 09 2011  
 175  
*Elizabeth A. White*  
 CLERK OF THE MARION CIRCUIT COURT

**COMPLAINT FOR INJUNCTION,  
 RESTITUTION, CIVIL PENALTIES, AND COSTS**

The State of Indiana, by Attorney General Gregory F. Zoeller and Deputy Attorney General Jeremy R. Comeau, petitions the Court pursuant to the Indiana Deceptive Consumer Sales Act, Indiana Code § 24-5-0.5-1 *et seq.*, for injunctive relief, civil penalties, investigative costs, and other relief.

PARTIES

1. The Plaintiff, State of Indiana, is authorized to bring this action and to seek injunctive and other statutory relief pursuant to Ind. Code § 24-5-0.5-4(c).
2. Defendant M. Esther Barber is a resident of Marion County, doing business as Asociacion Civica Mexicana De Indiana, Inc., with a principal place of business in Marion County, located at 2226 Shelby Street, Indianapolis, Indiana 46203-4231. Barber is a resident of Marion County. At all relevant times the Defendant has engaged in, and solicited to engage in

consumer transactions, including assistance with preparing and completing federal immigration forms for a fee.

3. Defendant Mexican Civic Association of Indiana, Inc. is an Indiana Corporation with its principal place of business in Marion County, located at 2226 Shelby Street, Indianapolis, Indiana 46203-4231. The Civic Association provides assistance to consumers with preparing and completing federal government immigration forms for a fee.

4. When in this Complaint, reference is made to any act of Mexican Civic Association Of Indiana, Inc., such allegations shall be deemed to mean that the principals, agents, representatives, or employees of the Civic Association who did or authorized such acts to be done while actively engaged in the management, direction, or control of the affairs of Civic Association. Defendant Barber, as the controlling principal and owner of the Civic Association used the entity for the purpose of misleading and deceiving Indiana consumers or so ignored the corporate form as to perpetrate a fraud upon consumers, as more fully described herein.

#### FACTS

4. At least since July, 2006, Barber has held herself out as a Notary Public, or “Notario Publico” in Spanish.

5. At least since July, 2006, Barber has advised consumers regarding procedures for requesting certain statuses from U.S. Citizenship and Immigration Services (“USCIS”).

6. At least since July, 2006, Barber’s services have included selecting appropriate USCIS forms and assisting clients in selecting, preparing, and completing the forms for filing.

7. Barber does not have a license to practice law, nor are any attorneys employed by her or Civic Association.

8. Barber is not an accredited representative by USCIS and does not possess any specialized training in order to offer assistance as a certified immigration specialist.

9. Defendants accepted payment and provided immigration services, including selecting and completing U.S. Citizenship and Immigration Services forms for the following consumers: Maria Barocio, Alexander Vazquez-Cueto, Erin Velazquez, Jose Barocio-Pineda, and Maria Romera-Esquivel.

10. The Indiana Supreme Court, in *State v. Diaz*, 838 N.E.2d 433, 448 (Ind. 2005), held that selecting immigration forms and advising clients on how to fill out selected immigration forms, as well as advising consumers regarding their immigration status is the practice of law which requires a license under Ind. Code § 33-43-2-1.

**COUNT I: VIOLATIONS OF THE DECEPTIVE CONSUMER SALES ACT**

11. Plaintiff realleges and incorporates by reference the allegations contained in Paragraphs 1 through 9 of this complaint.

12. The promises to assist in the completion and filing of USCIS immigration forms in conjunction with consumer payments made to Defendants are consumer transactions defined by Ind. Code § 24-5-0.5-2(a)(1).

13. Defendants are suppliers as defined by Ind. Code § 24-5-0.5-2(a)(3).

14. Barber represented herself as a Notary Public realizing that Mexican nationals would believe her to have the qualifications and expertise of a “Notario Publico” with specialized training and legal education when she knew or reasonably should have known she did not have a license to practice law, in violation of Ind. Code § 24-5-0.5-3(a)(7).

15. Defendants engaged in a consumer transaction to provide USCIS form completion and filing services without obtaining the required license to practice law in violation of Ind. Code § 24-5-0.5-10, which also constitutes a deceptive act under Inc. Code §24-5-0.5-2.

**COUNT II: KNOWING AND INTENTIONAL VIOLATIONS OF  
THE DECEPTIVE CONSUMER SALES ACT**

16. Plaintiff realleges and incorporates by reference the allegations contained in Paragraphs 1 through 15 of this complaint.

17. The misrepresentations and deceptive acts set forth in Paragraphs 14 and 15 above were committed by Defendants with knowledge and intent to deceive.

**RELIEF**

**WHEREFORE**, the Plaintiff, State of Indiana, requests the Court enter judgment against Defendants Mexican Civic Association of Indiana, Inc., and M. Esther Barber, individually and doing business as Asociacion Civica Mexicana De Indiana, Inc. permanently enjoining Defendants from any actions constituting the practice of law, including, but not limited to:

- a. Advising consumers regarding USCIS procedures and policies.
- b. Preparing, completing, and submitting USCIS forms on behalf of consumers.
- c. Accepting payment for services requiring the assistance of an attorney without obtaining a license to practice law.

**AND WHEREFORE**, the Plaintiff, State of Indiana, further requests the Court enter judgment against the Defendants for the following relief:

- a. Consumer restitution, pursuant to Ind. Code § 24-5-0.5-4(c)(2), for reimbursement of all unlawfully obtained funds remitted by consumers to the

Defendants for immigration services, including, but not limited to the consumers identified in Paragraph 7.

- b. Costs pursuant to Ind. Code §24-5-0.5-4(c)(3), awarding the Office of the Attorney General its reasonable expenses incurred in the investigation and prosecution of this action;
- c. Order the Defendants to make payment of the money unlawfully received from the aggrieved consumers to be held in escrow for distribution to aggrieved consumers pursuant to Ind. Code §24-5-0.5-4(c)(2);
- d. Civil penalties pursuant to Ind. Code §24-5-0.5-4(g) for the Defendants' knowing violations of the Deceptive Consumer Sales Act, in an amount up to \$5,000.00 per violation, payable to the State of Indiana;
- e. Civil penalties pursuant to Ind. Code §24-5-0.5-8 for the Defendants' intentional violations of the Deceptive Consumer Sales Act, in an amount up to \$500.00 per violation, payable to the State of Indiana; and
- f. All other just and proper relief.

Respectfully submitted,

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By:



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