

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION

FILED
2017 OCT 31 PM 4:25

COURT OF COOK COUNTY
CHANCERY DIVISION
DOROTHY BROWN - CLERK

CARLOS FIGUEROA,

Plaintiff,

-vs-

RUSSELL KELLY, individually and as agent,
Servant, and/or employee of CVS PHARMACY,
and CVS PHARMACY, INC.

Defendants.

Court No.:

2017CH15330
CALENDAR/ROOM 07
TIME 00:00
Injunction

COMPLAINT AT LAW

NOW COMES, the plaintiff, CARLOS FIGUEROA, by and through his attorneys HANNA / VANDER PLOEG, LLC, and complaining of the defendants, RUSSELL KELLY, individually and as agent, servant, and/or employee of CVS PHARMACY, and CVS PHARMACY, INC., states as follows:

COUNT I: CONVERSION

1. That, on or about October 30, 2017, plaintiff, CARLOS FIGUEROA, resided at 99 S. Butrick Street, City of Waukegan, State of Illinois.
2. That at all relevant times, defendant CVS PHARMACY, INC., (hereinafter "CVS") was a business incorporated in the State of Rhode Island and doing business within the City of Chicago, County of Cook, State of Illinois.
3. That at the time and place aforesaid, defendant CVS PHARMACY, INC., owned, operated, controlled and maintained a CVS PHARMACY located at 70 S. Louis Street, City of Waukegan, State of Illinois.
4. That at all relevant times, defendant RUSSELL KELLY, (hereinafter "KELLY") was

an agent, servant, and/or employee of defendant CVS PHARMACY, and was acting within the scope of his employment.

5. That at the time and place aforesaid, plaintiff CARLOS FIGUEROA, purchased a "Merry Millionaire" instant scratch off lottery ticket while at said CVS PHARMACY.

6. That as a result of a malfunction in the Illinois Lottery Vending machine located at said CVS PHARMACY, the ticket came in two halves.

7. That said lottery ticket was an instant winner of \$1,000,000.00. See Exhibit "A".

8. That defendant KELLY then coerced plaintiff to provide him with half of the ticket to confirm that plaintiff was a winner.

9. Approximately 20 minutes later, defendant KELLY returned a different half of the lottery ticket to the plaintiff. See Exhibit "B".

10. That the half of the ticket returned to plaintiff by KELLY was not the instant winner ticket that plaintiff was coerced into giving to KELLY.

11. That plaintiff FIGUEROA is the rightful owner of the ticket and the proceeds therefrom.

12. That plaintiff FIGUEROA has made repeated demands to the defendants for the return of the ticket.

13. That the ticket has, or will soon be, presented to the Illinois Lottery Board in the name of defendant KELLY, and the payout can be expected anytime.

WHEREFORE, plaintiff demands judgment in his favor and against defendants KELLY and CVS as follows:

- A. A finding that defendants have converted the lottery ticket;
- B. To issue an Order directing the Illinois Lottery to recognize CARLOS

FIGUEROA as the true owner of the lottery ticket specified herein; and,

C. Any further relief this court deems necessary and just.

COUNT II:

TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION AGAINST DEFENDANTS AND THE ILLINOIS DEPARTMENT OF REVENUE, ILLINOIS STATE LOTTERY FUND AND LOTTERY CONTROL BOARD.

NOW COMES the plaintiff CARLOS FIGUEROA by and through his attorneys, HANNA / VANDER PLOEG, LLC, and petitions this court for relief under Section 11-101 and 11-102 of the Illinois Code of Civil Procedure, 735 ILCS 5/11-101 and 102, for a temporary restraining order and preliminary injunction and in support thereof states as follows:

1. Plaintiff incorporates paragraphs 1 through 13 of Count I as and for paragraphs 1 through 13 of Count II as though fully stated herein.

14. That based upon the foregoing facts, plaintiff fears and believes that the defendants will attempt to convey, conceal, hide, dissipate, hypothecate, transfer, spend, and otherwise dispose of and/or encumber the Lottery proceeds owned to the plaintiff, which is the property of the plaintiff, or the proceeds thereof without this court's intervention, all in prejudice of your plaintiff's rights in this cause unless the ILLINOIS LOTTERY BOARD is enjoined and restrained by temporary restraining order ("TRO") and preliminary injunction from paying out the proceeds of the lottery ticket referenced herein and the defendants are enjoined and restrained by TRO and preliminary injunction from encumbering, concealing, hiding, transferring, spending, or otherwise disposing of the proceeds if previously distributed.

15. Plaintiff is in need of immediate relief in that unless the Defendant and the Illinois Lottery Board is restrained from doing any of the acts stated above, he will suffer immediate and

irreparable harm.

16. That there is a strong likelihood of success on the merits and the plaintiff is without sufficient funds to post bond as a result of defendant's previous actions.

17. That the plaintiff has no adequate remedy at law.

18. That the detriment of the TRO and preliminary injunction against the defendants is greatly outweighed by the benefit to the plaintiff as said funds are the property of the plaintiff.

WHEREFORE, plaintiff, CARLOS FIGUEROA, prays for the following relief from this court:

A. For a TRO and subsequent preliminary injunction to be entered against the ILLINOIS LOTTERY BOARD to be enjoined and restrained by TRO and preliminary injunction from paying out the proceeds of the lottery ticket referenced herein and the defendant is enjoined from transferring, encumbering, hiding, spending or otherwise hypothecating any of the proceeds thereof in any manner without first obtaining leave of court or the ascent of the plaintiff and to place said funds in escrow if said funds have previously been dispersed; and,

B. For any such other relief this court deems appropriate and equitable.

Respectfully Submitted,

One of Plaintiff's Attorneys

David J. Vander Ploeg
HANNA / VANDER PLOEG, LLC
20 N. Clark St. Ste. 3100
Chicago IL 60602
(312) 268-2026
(312) 268-7035 *facsimile*
Attorney No. 57052