

STATE OF MICHIGAN
DEPARTMENT OF ATTORNEY GENERAL



P.O. Box 30736
LANSING, MICHIGAN 48909

DANA NESSEL
ATTORNEY GENERAL

September 29, 2023

30th Judicial Circuit Court
313 W. Kalamazoo St.
Lansing, MI 49503

Re: *Dana Nessel, Attorney General of the State of Michigan, ex rel The People of the State of Michigan v Kyle Scappaticci, Kevin Scappaticci, and Emily Scappaticci.*
Case No.

Dear Clerk:

Enclosed for filing is an original of an *Ex Parte* Petition for Civil Investigative Subpoenas and proposed Order Authorizing Issuance of Civil Investigative Subpoenas that is being presented pursuant to section 7 of Michigan's Consumer Protection Act, MCL 445.907.

If the Order is entered, I kindly request that one copy of the Order be sent to me.

I've enclosed a courtesy copy of MCL 445.913, which permits the Department of Attorney General to file these documents free of charge.

Thank you for your attention to this matter.

Sincerely,

Katherine J. Bennett

Katherine J. Bennett (P75913)
Assistant Attorney General
Michigan Dep't of Attorney General
Corporate Oversight Division
P.O. Box 30736
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(517) 335-7632

KJB/aeb

MICHIGAN CONSUMER PROTECTION ACT (EXCERPT)
Act 331 of 1976

445.913 Filing fees for commencing action or filing voluntary assurance.

Sec. 13. When the attorney general or prosecuting attorney commences an action or files a voluntary assurance pursuant to this act, filing fees shall not be required to be paid.

History: 1976, Act 331, Eff. Apr. 1, 1977.

STATE OF MICHIGAN
IN THE 30TH JUDICIAL CIRCUIT COURT FOR THE COUNTY OF INGHAM

DANA NESSEL, ATTORNEY GENERAL
OF THE STATE OF MICHIGAN, *ex rel*
The People of the State of Michigan,

Petitioner,

No. 23- -CZ

v

HON.

KYLE SCAPPATICCI, KEVIN
SCAPPATICCI, AND EMILY
SCAPPATICCI,

Respondents.

Katherine J. Bennett (P75913)
Assistant Attorney General
Michigan Dep't of Attorney General
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**ORDER AUTHORIZING ISSUANCE OF CIVIL INVESTIGATIVE
SUBPOENAS**

At a session of said Court, held on
_____, 2023, in the City of _____, Michigan.
Present: HON. _____

The Attorney General has presented this Court with an *Ex Parte* Petition for Civil Investigative Subpoenas related to an investigation of Respondents Kyle Scappaticci, Kevin Scappaticci, and Emily Scappaticci. Through the *Ex Parte* Petition, the Attorney General alleges that there is probable cause to believe

Respondents have violated the Michigan Consumer Protection Act (the Act), MCL 445.901 *et seq.*

Having had an opportunity to review these materials, this Court finds that probable cause exists to believe Respondents have violated the Act.

THEREFORE, IT IS ORDERED that the Attorney General, acting through her assistants, is authorized to issue investigative subpoenas to Respondents.

IT IS FURTHER ORDERED that the Attorney General, acting through her assistants, is authorized to issue additional subpoenas seeking testimony and documentation from persons and entities that are identified during the course of this investigation.

IT IS SO ORDERED.

Hon.
Circuit Court Judge

STATE OF MICHIGAN
IN THE 30TH JUDICIAL CIRCUIT COURT FOR THE COUNTY OF INGHAM

DANA NESSEL, ATTORNEY GENERAL
OF THE STATE OF MICHIGAN, *ex rel*
The People of the State of Michigan,

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**ATTORNEY GENERAL'S *EX PARTE* PETITION FOR CIVIL
INVESTIGATIVE SUBPOENAS**

*There is no other pending or resolved civil action arising out of the
same transaction or occurrence as alleged in the petition.*

INTRODUCTION

Dealing with household pests is stressful enough. But some consumers in Michigan and surrounding states have discovered that the advertised remedy is just as much of a pest as the original animal that made its way into their attics or walls.

For example, imagine you just encountered squirrels in your home. You pull out your smartphone and google “animal in attic” to find a local professional to help you. One of the top results is a website for a business that appears to be locally owned, appropriately licensed, and that offers a five-year guarantee on the work. You call the number, arrange for a technician to come to your home, and pay a \$99 inspection fee. After inspection, you pay several thousand dollars to have the squirrels removed and your home repaired to prevent future infestation.

It’s not until later that you discover the business is not local—in fact, it may go by an entirely different name. And when the squirrels return six months or a year down the road, you contact the business and are told the business has been sold, your warranty is worthless, and you will need to pay another thousand dollars to have the squirrel problem addressed again. Meanwhile, the operator of the business appears on a podcast entitled “Pest Control Millionaire” and boasts that they are making millions through the very marketing scheme you fell prey to—a misleading marketing scheme that has allowed them to keep expanding despite never purchasing a smaller local company.

Although such manipulation of consumers may be lucrative, it is prohibited by the Michigan Consumer Protection Act, MCL 445.901 *et seq.* (the MCPA). The Attorney General thus seeks this Court’s authorization to initiate a formal investigation under the MCPA to better understand Respondents’ marketing and warranty scheme and the scope of consumers adversely impacted by it.

PARTIES, LEGAL AUTHORITY, AND VENUE

1. The Michigan Attorney General is authorized to file an *ex parte* petition with the circuit court requesting issuance of an investigative subpoena under section 7 of the MCPA, MCL 445.907, which provides in pertinent part:

Upon the *ex parte* application of the attorney general to the circuit court in the county where the defendant is established or conducts business or, if the defendant is not established in this state, in Ingham county, the circuit court, if it finds probable cause to believe a person has engaged, is engaging, or is about to engage in a method, act, or practice which is unlawful under this act, may, after an *ex parte* hearing, issue a subpoena compelling a person to appear before the attorney general and answer under oath questions relating to an alleged violation of this act. . . . The subpoena may compel a person to produce the books, records, papers, documents, or things relating to an alleged violation of this act. MCL 445.907(1).

2. The Attorney General has probable cause to believe that acts or practices defined as unlawful under the MCPA have occurred and continue to occur, as set forth below.
3. Respondent Kyle Scappaticci is a resident of Washtenaw County and serves as resident agent of Michigan Wildlife Removal, LLC.
4. Respondent Kevin Scappaticci is Kyle's twin brother; a resident of Wayne County; and serves as resident agent of Platinum Wildlife Removal, LLC, 24 Hour Animal Control, LLC, and Platinum Raccoon Removal, LLC.
5. Respondent Emily Scappaticci is Kyle's wife; a resident of Washtenaw County; and serves as resident agent of Pestway, LLC, Catch Pest Control, LLC, and Platinum Pest Management, LLC.
6. Upon information and belief, Respondents are the principals of a wildlife removal and pest control business, or a number of businesses, that operate

throughout Michigan and surrounding states using a variety of aliases, many of which are fictitious.

7. Ingham County is an appropriate venue for this Petition.

FACTUAL ALLEGATIONS

I. **The Attorney General receives a complaint regarding Attic Animal Evictors, LLC**

8. On June 7, 2023, the Attorney General received a complaint from consumer Laura, owner of Stainless Fabricating and Engineering, indicating that another business was using her business' address at 9718 Portage Rd. in Kalamazoo without consent. (Laura Complaint, **Exhibit 1.**)
9. Laura alleged that she received mailings from the Corporations Division at the Michigan Department of Licensing and Regulatory Affairs (LARA), indicating that a business by the name of Attic Animal Evictors, LLC (Attic) had registered with the state using her business' address.
10. Special Agent Martin May was assigned to investigate Laura's complaint.
11. Attic registered with LARA on May 24, 2023, and listed Tracy Walters as the resident agent, using Laura's business' address. (May Attic Report, **Exhibit 2.**)
12. Attic Animal Evictors, LLC maintained a business website with the address <https://atticanimalevictors.com>, which indicated the business was “[f]ully Michigan and Kalamazoo County licensed and insured.” (Attic website capture, **Exhibit 3.**)

13. On June 12, 2023, Special Agent May called the phone number listed on the website, and he spoke with someone named Amber, who explained he was calling “Pestway” in Livonia.
14. Amber told Special Agent May that Pestway had acquired “Platinum Wildlife” in the beginning of 2023.
15. Special Agent May confirmed with the Michigan Department of Natural Resources that neither Tracy Walters nor Attic Animal Evictors, LLC held licensure for wildlife damage control and/or nuisance control.
16. Special Agent May used internet lookup Database Hexellion to confirm that the Domain Host for <https://atticanimalevictors.com> is Kevin Scappaticci of Livonia.
17. Just a few days after Agent May spoke with Amber, on June 15, 2023, Attic filed a document with LARA changing its address from 9718 Portage Rd. to 97118 Portage Rd. (LARA Certificate of Change, **Exhibit 4**.)

II. The Attorney General reviews complaints from the Better Business Bureau (BBB)

18. Upon request, the BBB provided the Attorney General copies of complaints received regarding Platinum Wildlife Removal, LLC (Platinum) and Pestway, LLC (Pestway). (BBB Complaints, **Exhibit 5**.)
19. In 2017, Platinum applied for BBB accreditation, and the BBB discovered Platinum previously operated as Michigan Wildlife Removal, LLC, which had an “F” rating. (Charlier email, **Exhibit 6**.)

20. A 2018 unpublished Michigan Court of Appeals opinion, *Lacey v Auto Club Insurance Association* (No. 335580), explains that Michigan Wildlife Removal, LLC is co-owned by brothers Kyle and Kevin Scappaticci. The opinion is otherwise irrelevant to this petition, as it concerns a dispute between no-fault insurers and an auto accident involving an employee of Michigan Wildlife Removal, LLC.

A. Abigail's BBB Complaint

21. Consumer Abigail and her fiancé discovered squirrels in their walls shortly after purchasing their first home in Grand Rapids. (Abigail Affidavit, **Exhibit 7.**)

22. Abigail used Google to find a company to treat their squirrel problem and chose Platinum over other companies because they offered a five-year warranty.

23. On September 13, 2022, a technician inspected the home, taking many photographs. Abigail was charged \$99.00 for this inspection.

24. The next day, Abigail contracted with Platinum and paid \$2,219.00 to have a technician seal the home and set traps. A technician then came to the home and allegedly completed the sealing process.

25. Through the contract, Abigail also agreed to pay Platinum \$89.00 each time they removed an animal from a trap and relocated it. Abigail paid Platinum this fee a total of eight times.

26. A couple of months later, Abigail heard squirrels again. Platinum came out and did another seal up.

27. After the second seal up, she again heard squirrels in the wall. This time, when she called the phone number on a prior invoice, the phone was answered by a company called Pestway. She was told Platinum was bought out by Pestway.
28. On March 8, 2023, Pestway came to the home, and Abigail paid \$99.00 for another inspection. She was then given an estimate indicating it would be an additional \$1,648.00 to resolve the squirrel infestation.
29. Abigail emailed Pestway on the day of the inspection and asked why they would not honor Platinum's warranty. In response, she received an email explaining that when Pestway acquired Platinum, it acquired its database only.
30. Abigail then chose to file a complaint with the BBB. When she told Pestway she was doing this, Pestway suggested that the squirrels made new entry points not covered by Platinum's warranty, but they might be able to provide her a discount to fix it.
31. Abigail discovered through a photograph that there was a missing piece of fascia that Platinum had failed to notice and fix during its multiple trips to the home. She chose to have her father fix the fascia rather than hire Pestway. She has not had a squirrel problem since her father made the repair.

32. On August 11, 2023, Abigail observed a Platinum truck driving in Grand Rapids, which she thought was strange, as it was her understanding that Platinum had been bought out by Pestway.
33. After providing the Department of Attorney General an affidavit in support of this petition, over six months after filing her BBB complaint, Abigail received notification that Pestway had finally responded to her through the BBB mediation process.
34. The response was signed by Tina Gillespie, CEO of Pestway, and explained that Pestway’s technician found that the work previously completed was “intact and doing its job,” but the squirrels had made new holes, which were not covered by the warranty. Tina indicated that Abigail could call her to discuss the account and go over the entry points that she “believes should have been covered[.]” (Gillespie Response, **Exhibit 8**.)
35. Abigail informed the undersigned Assistant Attorney General that she did not plan to contact Tina.

B. Bernard’s BBB Complaint

36. In summer 2022, consumer Bernard discovered some critters in the ceilings and walls of his home in Farmington Hills, which he believed to be squirrels. (Bernard Affidavit, **Exhibit 9**.)
37. Bernard hired Platinum to address the problem, and a technician came to his home on September 4, 2022. He paid the invoice of \$1,886.10, noting the invoice provided a “5 year warranty on all work.”

38. Although he found the technician to be very professional and was generally satisfied with the work, he again heard critters in his ceilings and walls in May of 2023.
39. On May 25, 2023, Bernard emailed Platinum at mywildliferemoval@gmail.com to request the problem be addressed under warranty.
40. Bernard received a response from support@mypestway.com, informing him that Pestway had acquired Platinum, but his request would be forwarded to a manager.
41. Bernard never heard from a manager, but he followed up multiple times via email without a successful resolution. One time, he was simply asked for the service address. Another time, the response simply was “Thank you for reaching out? How can we help you?”
42. Bernard filed a complaint with the BBB, which remains unresolved.
43. Bernard later researched the company on the internet and concluded the company operates under many different names.

C. Sara’s BBB Complaint

44. Consumer Sara owns rental property in Ohio, and, in fall 2022, sought professional assistance when a groundhog was discovered at her property in Zanesville, Ohio. (Sara Affidavit, **Exhibit 10**.)
45. Sara wanted to use a local company, so she researched online and found a website for Zanesville Wildlife Removal, <http://www.wildlife-removal.com/city/OH-Zanesville.htm>. The website included a local phone

number and information leading her to believe it was local to her area. The website also assured that the business was licensed by the Ohio Fish & Wildlife Commission.

46. Sarah called Zanesville Wildlife Removal at a phone number with an area code covering Southeastern Ohio. She paid \$399 and scheduled an appointment for October 14, 2022. But she then received a confirmation email from Platinum Wildlife Removal of Livonia, Michigan.
47. On the scheduled day, a technician set up a trap and sent Sara a photograph of it.
48. Within 48 hours, the trap was removed. Unfortunately, the groundhog remained on the property.
49. At that point, communication with the business fell off. Sara kept reaching out but did not receive a response. She also texted the technician but was told he no longer worked for the business.
50. Finding the business' practices to be "shady," Sarah researched Platinum online. She concluded they were either buying up local businesses or pretending to be a local business, when they are actually located in a different state—Michigan.
51. Because Sara did not receive any benefit for the money she had paid, she filed a complaint with the BBB, requesting a refund.
52. Dana Hudson responded through the BBB on behalf of Platinum and claimed that she was "unsure who Zainesville [sic] Wildlife Removal is[.]" She

claimed she was with Platinum and that her records showed that the trap was still at Sara's property. Dana did not offer Sara a refund, nor has Sara received a refund.

53. There is reason to believe Dana Hudson is either the current or former spouse of Kevin Scappaticci. (Charlier email, **Exhibit 6**; FastPeopleSearch results, **Exhibit 11**.)

III. **The Attorney General begins an informal investigation**

A. **LARA records**

54. To determine whether this petition would be necessary, the Attorney General reviewed information publicly available online.
55. LARA's online business entity database shows a suspicious pattern of filings related to the Scappaticcis.
56. For example, there are seven registered limited liability companies, with names beginning with the phrase "Platinum Wildlife." (LARA Platinum Wildlife Search, **Exhibit 12**.) One of those companies, "Platinum Wildlife Removal Of Lansing Limited Liability Company" has a resident agent named "Ermerly Gerd" and a registered address on Buttonwood Drive in Haslett. (Platinum Lansing Articles of Organization, **Exhibit 13**.)
57. A Google search for the name "Ermerly Gerd" returns no results, save for reference to this business registration. (Gerd Google search results, **Exhibit 14**.)

58. Special Agent May visited the Buttonwood Drive address, which is in a residential neighborhood. Special Agent May later made contact with the homeowner, who had never heard of Platinum, has no affiliation with the business, and indicated he would like anything regarding his home removed from LARA records. (May Buttonwood Report, **Exhibit 15**.)
59. Similarly, LARA records show seven limited liability companies with names beginning with the word “Pestway.” (LARA Pestway Search, **Exhibit 16**.)
60. LARA records show that Michigan Wildlife Removal, LLC has the following registered assumed names: Pestway Services, Platinum Wildlife Removal, and Professional Wildlife Services. (Michigan Wildlife assumed names, **Exhibit 17**.)

B. Pest Control Millionaire

61. There is also publicly available online an episode of the YouTube podcast “Pest Control Millionaire,” entitled “Kyle Scappaticci of Pestway.”¹
62. The episode is an interview with Kyle Scappaticci lasting over an hour and was posted on April 18, 2023.
63. The episode explains Kyle and Kevin are twin brothers, and they began their wildlife removal business approximately fifteen years ago.

¹ As of the date of filing, this episode can be viewed online at <https://youtu.be/lJB3qwCi5uc?si=SfR7eEWAfYgyTe98>. The Attorney General has preserved a recording of the episode, which can be provided to the Court upon request.

64. Kyle explains that his wife, Emily, launched Pestway to expand their business from wildlife removal to pest control, and they decided to “phase out” the Platinum brand in the beginning of 2023.
65. Kyle speaks at length about how they market their business, and he explains that Kevin directs those efforts. Kyle explains that Kevin uses “SEO” and “GMB” for marketing purposes, but he cannot talk too much about it because “Google is probably listening” and “will probably shut me down right away.”
66. There is reason to believe SEO means “search engine optimization” and GMB means “Google My Business.”²
67. Kyle suggests the family operates hundreds of websites to generate business leads, and he admits that they have been flagged in the past because certain people don’t think this type of marketing is “right.”
68. Kyle explains that the business hit \$11 million last year and has expanded throughout Michigan and to various markets in Indiana and Ohio. He also explains that they have never acquired another wildlife removal or pest control company, because that is unnecessary due to their marketing system.
69. While it is unclear without further investigation exactly how the Scappaticcis’ marketing system works, it is believed, based on the information described

² Erica McMillan, *How to Use Google My Business to 10x Your Local SEO Campaign*, Forbes, Apr 26, 2022, available at <https://www.forbes.com/sites/forbesbusinesscouncil/2022/04/26/how-to-use-google-my-business-to-10x-your-local-seo-campaign/?sh=58e3d16d7060>.

above, that they operate numerous sham websites designed to appear to be local businesses.

70. Upon information and belief, when consumers use Google to try to find a pest control business, they are misled to believe they are contacting a local business when, in reality, they are contacting the Scappaticcis' business.

C. Michigan Department of Natural Resources (DNR) Licensing

71. When queried, the DNR online Nuisance Animal Control Directory does not include any entries including the terms "Scappaticci," "Platinum," or "Pestway."

D. Joe's Complaint

72. As the Attorney General was exploring these underlying facts, on August 2, 2023, the Attorney General received a complaint from a consumer named Joe.(Joe Complaint, **Exhibit 18.**)
73. Joe alleged that Pestway, LLC, formerly Platinum Wildlife Removal, LLC, engages in "deceptive marketing tactics" and uses "hundreds of fake business listings on Google Maps."
74. Joe alleged that some of the fake companies are registered limited liability companies but are not licensed to provide the services advertised.
75. Joe alleged that the Scappaticcis' business practices not only mislead consumers but also make it difficult for other businesses like his to compete in the marketplace.

76. Joe subsequently sent the Attorney General a report detailing dozens of business names he alleges Pestway utilizes to mislead consumers. (Joe Report, **Exhibit 19**.) Joe alleged the following in his report:

The purpose of this report is to address the presence of Pestway, LLC, formerly Platinum Wildlife Removal, LLC creating fake Google My Business (GMB) listings in the pest control service and animal control service industry. These fake listings engage in pattern-wise spamming and employ deceptive tactics, such as hiding their business address, keyword stuffing in business names, and utilizing referral methods for lead buy-sell business. All of the phone numbers lead to one location. They answer the phone the same, no matter which fake business listing you call. They use several different business names, phone numbers, and websites baiting the consumer into thinking they are calling a different company. These names contain fraudulent reviews, posing as legitimate. The actions of these fake businesses harm legitimate businesses and mislead potential customers. To my knowledge they do have several LLCs for these fake companies however they are not licensed in pest control or wildlife removal to provide advertising, or services to customers under these false names.

77. The Attorney General forwarded Joe’s complaint to Pestway for mediation purposes, per the normal course of business, and received the following response from support@mypestway.com: “Our company uses several online marketing companies to generate leads. At no point do we ever tell anyone we are anyone other than Pestway. This is merely a bitter competitor trying to take out his competition to increase his business.” (Pestway Response to Joe, **Exhibit 20**.)

VIOLATIONS OF THE ACT

I. Violations related to deceptive advertising

78. When a business causes a probability of confusion or misunderstanding as to the source, sponsorship, approval, or certification of goods or services, that

business has engaged in an unfair, unconscionable, or deceptive business practice under the MCPA. MCL 445.903(1)(a).

79. Likewise, a business may not use deceptive representations or deceptive designations of geographic origin in connection with goods or services. MCL 445.903(1)(b).

80. Similarly, it is unlawful for a business to represent that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits, or quantities that they do not have or that a person has sponsorship, approval, status, affiliation, or connection that he or she does not have. MCL 445.903(1)(c).

81. Special Agent May's report regarding Attic and Sara's experience with Zanesville Wildlife Removal demonstrate probable cause that the Scappaticcis' business practices violate MCL 445.903(1)(a), (b), and (c). This probable cause is bolstered by LARA records, Respondent Kyle Scappaticci's own statements on the Pest Control Millionaire podcast, and the absence of DNR licensing records, as well as Joe's complaint to the Attorney General.

II. Violations related to Pestway's alleged purchase of Platinum

82. When a business causes a probability of confusion or misunderstanding as to the legal rights, obligations, or remedies of a party to a transaction, that business has engaged in an unfair, unconscionable, or deceptive business practice under the MCPA. MCL 445.903(1)(n).

83. Likewise, a business may not fail to reveal a material fact, the omission of which tends to mislead or deceive the consumer, and which fact could not reasonably be known by the consumer. MCL 445.901(1)(s).
84. Similarly, it is unlawful for a business to make a representation of fact or statement of fact material to the transaction such that a person reasonably believes the represented or suggested state of affairs to be other than it actually is. MCL 445.903(1)(bb).
85. LARA records and Respondent Kyle Scappaticci's own statements on the Pest Control Millionaire podcast make it clear that Pestway did not purchase Platinum—these two business entities are both operated by Respondents. Accordingly, Abigail's and Bernard's affidavits demonstrate probable cause that the Scappaticcis' business practices violate MCL 445.903(1)(n), (s), and (bb).

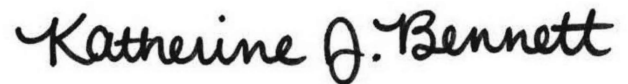
CONCLUSION AND RELIEF REQUESTED

Based on the above, the Attorney General seeks authority to issue subpoenas to Respondents seeking information and documents sufficient to identify all the aliases, business names, and websites utilized by Respondents. Similarly, through such subpoenas, the Attorney General seeks information and documents necessary to better understand the Scappaticcis' marketing system. Documents and testimony will be sought to help the Attorney General better understand the relationship between Platinum and Pestway, and the extent to which these entities had (or have) common officers, employees, vehicles and equipment. And the Attorney General will also seek the "customer database" that Platinum allegedly

sold to Pestway, in an effort to ascertain the identities of consumers adversely impacted by Respondents' business practices.

The Attorney General would seek this information both through issuing subpoenas duces tecum and through subpoenas seeking the sworn testimony of Respondents and, potentially, appropriate representatives of Respondents' businesses. The Attorney General also seeks authority to issue additional subpoenas as necessary, depending upon the entities and persons identified during the course of the investigation. The Attorney General seeks this information as it is necessary for future enforcement of the MCPA to address the concerns described in this Petition.

Respectfully submitted,

A handwritten signature in black ink that reads "Katherine J. Bennett". The signature is written in a cursive, flowing style.

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Dated: September 29, 2023