

COURT OF COMMON PLEAS
HAMILTON COUNTY, OHIO

**STANLEY STEEMER OF
NORTHERN KENTUCKY, INC.**

% Gregory A. Keyser
6657 Hitching Post Lane
Cincinnati, Ohio 452305

and

SUSAN VOGES
fka SUSAN HURLEY
9295 Alexandria Pike
Alexandria, Kentucky 41007

and

JEFFREY VOGES
9295 Alexandria Pike
Alexandria, Kentucky 41007

Plaintiffs,

v.

ERIC C. DETERS
5247 Madison Avenue
Independence, Kentucky 41051-7941

and

ERIC C. DETERS & PARTNERS, P.S.C.
fka ERIC C. DETERS & ASSOCIATES, P.S.C.
635 W. Seventh Street, Suite 401
Cincinnati, Ohio 45203,

Defendants.

: Case No. A 1501929

: Honorable Beth A. Myers



*COMPLAINT
(REFILING)*

FILED

TRACY WINKLER
CLERK OF COURTS
HAMILTON COUNTY, OH
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Susan Voges, Jeffrey Voges and Stanley Steemer of Northern Kentucky, Inc. ("SSNKY") bring this action seeking redress for damages suffered as a result of legal malpractice by Eric Deters and his former law practice, Eric C. Deters and Partners, PSC.

1. Plaintiff Stanley Steemer of Northern Kentucky, Inc. (“SSNKY”) was a Kentucky corporation that owned and operated a franchise of Stanley Steemer, the national company providing carpet cleaning, tile and grout cleaning, upholstery cleaning, hardwood floor cleaning and air duct cleaning.

2. Plaintiff Susan Voges (formerly known as Susan Hurley) was the owner and operator of SSNKY.

3. Plaintiff Jeffrey Voges, in 2013, started his own carpet cleaning business in the greater Cincinnati area.

4. At all relevant times, Defendant Eric C. Deters was an attorney licensed to practice law in Ohio and Kentucky. He has since surrendered his licenses to practice law.

5. At all relevant times, Defendant Eric C. Deters & Partners, P.S.C. (“EDP”) was a Kentucky professional services corporation with an office in Hamilton County, Ohio and formerly operated under the name of Eric C. Deters & Associates, P.S.C.

6. Based on information and belief, Mr. Deters was the sole owner and/or shareholder of EDP.

7. All relevant actions of Mr. Deters were undertaken with authority as an authorized agent, representative or officer of EDP.

SUBSTANTIVE ALLEGATIONS

8. For more than 20 years, until about January 2013, SSNKY was a franchisee of Stanley Steemer, Inc., an Ohio corporation.

9. As a Stanley Steemer franchisee, SSNKY provided carpet cleaning services generally in Northern Kentucky.

10. During the 20-year tenure of her Stanley Steemer franchise, Susan Voges

built SSNKY through hard work, investment in equipment, good customer service, and advertising her longstanding business telephone number.

11. Ms. Voges built her Stanley Steemer franchise into a business worth approximately \$500,000.

12. During late 2012, Ms. Voges became concerned over her continuing franchise relationship with Stanley Steemer, Inc., and was considering whether to terminate the franchise relationship.

13. Branding himself as "The Bulldog," Eric Deters promised and held himself out to the public as providing competent and aggressive legal representation.

14. In late 2012, Ms. Voges telephoned Eric Deters to schedule an appointment to secure Mr. Deters' advice on a legal course of action, including addressing her concerns and to fully understand her legal rights as a franchisee.

15. During his initial telephone conversation with Ms. Voges, Mr. Deters boasted that he was extremely knowledgeable about franchise matters and franchise law because he had owned numerous franchises and represented many franchise owners in franchise disputes and litigation.

16. Based on Mr. Deters' representation and assurances regarding his extensive knowledge and experience in franchise matters, Ms. Voges retained Deters' legal services for advice and to represent her and SSNKY in dealings with Stanley Steemer.

17. As a result of that telephone conversation, Ms. Voges and Mr. Deters agreed to meet at Mr. Deters' office on December 13, 2012.

18. Susan Voges, Jeffrey Voges and Eric Deters met at EDP's office on December 13, 2012.

19. Ms. Voges brought to that meeting a copy of her written franchise agreement with Stanley Steemer and other documents relevant to her Stanley Steemer franchise.

20. At the meeting on December 13, 2012, Susan Voges explained to Mr. Deters the nature and duration of her franchise relationship with Stanley Steemer.

21. At the meeting with Mr. Deters on December 13, 2012, Susan Voges explained to Mr. Deters the nature and scope of SSNKY's business.

22. At the meeting with Mr. Deters on December 13, 2012, Susan Voges explained to Mr. Deters her business' dependence, whether through SSNKY or another business, on the continued use of the existing telephone number and equipment, regardless of whether the business relationship with Stanley Steemer continued forward.

23. At the meeting with Mr. Deters on December 13, 2012, Susan Voges explained to Mr. Deters that Stanley Steemer had conducted two recent audits of SSNKY's business operations.

24. At the meeting with Mr. Deters on December 13, 2012, Susan Voges explained to Mr. Deters that, as a result of the two recent audits of SSNKY's business operations conducted by Stanley Steemer, Stanley Steemer claimed that SSNKY had underreported certain franchise-related income and failed to pay the full amount of contractually-required contributions to a joint advertising budget.

25. At the meeting with Mr. Deters on December 13, 2012, Susan Voges explained to Mr. Deters that, as a result of the two recent audits of SSNKY's business operations conducted by Stanley Steemer, Stanley Steemer insisted on additional payments from SSNK.

26. At the meeting with Mr. Deters on December 13, 2012, Susan Voges relayed her concern that Stanley Steemer had unilaterally increased advertising and/or other payments required from Stanley Steemer franchisees (including SSNKY) and that the increased payments couldn't be justified by any corresponding benefit to SSNKY.

27. At the meeting with Mr. Deters on December 13, 2012, Mr. Deters reassured Susan Voges that she had turned to the right lawyer for advice, again reminding her that he had personally owned franchises and represented other franchise owners in franchise disputes and litigation

28. At the meeting with Mr. Deters on December 13, 2012, Susan Voges offered to Mr. Deters for his review a copy of the written franchise agreement between Stanley Streemer, SSNKY and Ms. Voges.

29. At the meeting with Mr. Deters on December 13, 2012, Mr. Deters declared to Susan Voges that he didn't need to read the agreement because he was so familiar with the workings of franchises and franchise law that he already knew her rights and obligations as a franchise owner and Stanley Steemers' rights and obligations as a franchisor.

30. Throughout the course of the meeting with Mr. Deters on December 13, 2012, Susan Voges continued to offer the written agreement for Mr. Deters' review, and Mr. Deters continued to ignore the agreement, insisting that his expertise was so extensive that he didn't need to read the document to know the legal and enforceable terms of Ms. Voges' franchise with Stanley Steemer.

31. At the meeting with Mr. Deters on December 13, 2012, Susan Voges asked Mr. Deters to tell her whether she could terminate her franchise agreement and, if so, the

legal consequences, including whether she could begin operating a separate carpet cleaning business in competition with Stanley Steemer in Northern Kentucky and Southwest Ohio, whether she could keep SSNKY's existing telephone number and assign it to a new business, and whether she could continue to use SSNKY's trucks and carpet cleaning equipment and supplies.

32. At the meeting at Mr. Deter's office on December 13, 2012, Mr. Deters advised Susan Voges and Jeffrey Voges that they could establish a new carpet-cleaning business in competition with Stanley Steemer, although he advised them to open such a competing business under the ownership of Jeffrey Voges.

33. At the meeting at Mr. Deter's office on December 13, 2012, Mr. Deters further advised Susan Voges and Jeffrey Voges that they could continue to use SSNKY's telephone number, yellow trucks, and carpet cleaning equipment and supplies in operating the new carpet cleaning business.

34. At the meeting at Mr. Deter's office on December 13, 2012, Mr. Deters further advised Susan Voges and Jeffrey Voges that they didn't need to apprise Stanley Steemer about starting a new, competing business.

35. At the meeting at Mr. Deter's office on December 13, 2012, Mr. Deters further advised Susan Voges and Jeffrey Voges that they didn't need to formally terminate the existing franchise agreement with Stanley Steemer.

36. In exchange for his time and advice on December 13, 2012, Mr. Deters charged a "fee" consisting of the bartering of carpet-cleaning services for EDP's Alexandria, Kentucky office.

37. Susan Voges, Jeffrey Voges and SSNKY paid the "fee" by cleaning the

carpets in EDP's Alexandria office on December 15.

38. Based on and consistent with Mr. Deters' advice, in January 2013 Susan Voges and SSNKY stopped taking calls or conducting business as a Stanley Steemer franchise.

39. Based on and consistent with Mr. Deters' advice, in January 2013 Susan Voges and SSNKY did not inform Stanley Steemer that she had stopped doing business as a Stanley Steemer franchisee.

40. Instead, based on and consistent with Mr. Deters' advice, Jeffrey Voges commenced operation of a new carpet-cleaning business under the name Custom Clean Carpet Cleaners.

41. Based on and consistent with Mr. Deters' advice, Custom Clean Carpet Cleaners operated in competition with Stanley Steemer.

42. Based on and consistent with Mr. Deters' advice, Custom Clean Carpet Cleaners used the telephone number, yellow trucks, and carpet cleaning equipment that had been used by SSNKY, as a Stanley Steemer franchise, to conduct business in Northern Kentucky.

43. Based on and consistent with Mr. Deters' advice, in January 2013 Susan Voges and SSNKY did not inform Stanley Steemer that SSNKY's telephone number, trucks, and equipment were being used by a new carpet cleaning company that competed with Stanley Steemer.

44. Based on and consistent with Mr. Deters' advice, in January 2013 Susan Voges and SSNKY did not inform Stanley Steemer that she knew of or had any relationship with Custom Clean Carpet Cleaners, the carpet cleaning business operated by

Jeffrey Voges.

45. Instead, based on and consistent with Mr. Deters', in January 2013 Custom Clean Carpet Cleaners used the telephone number previously assigned to SSNKY's Stanley Steemer franchise so as to respond to calls placed by customers that had been cultivated by Susan Voges as a Stanley Steemer franchisee during its 20-year existence, as well as to respond to other callers to the franchise number, so that Custom Clean Carpet Cleaners could provide service to those customers.

46. During this same time period in late 2012 and early 2013, Stanley Steemer was reevaluating its franchise relationship with Susan Voges and determined that it would terminate Ms. Voges' franchise.

47. In similar situations, *i.e.*, where Stanley Steemer was terminating a franchisee, it had become Stanley Steemer's practice to try to continue amicable, or at least healthy and productive, relations with departing franchisees by facilitating a sale of the departing owners' franchise rights, either to a third party or to Stanley Steemer itself.

48. With special respect to Susan Voges' franchise, Stanley Steemer appreciated and acknowledged its longstanding good relationship with Ms. Voges and the business Ms. Voges had grown in Northern Kentucky. Thus, Stanley Steemer wished to treat Ms. Voges well despite its intention to terminate the franchise relationship.

49. Accordingly, Stanley Steemer contemplated buying Susan Voges' franchise at its fair market value, expected to be approximately \$500,000.

50. However, in January 2013, Stanley Steemer discovered that Susan Voges had stopped operating her Stanley Steemer franchise.

51. Stanley Steemer further learned that the franchise's phone number, carpet

cleaning equipment and processes, and yellow trucks were being used to support a separate competing carpet cleaning business operated by Jeffrey Voges under the name of Custom Clean Carpet Cleaners.

52. Stanley Steemer believed that Susan Voges' actions – all of which were undertaken based upon Mr. Deters' legal advice – breached obligations owed by Susan Voges and SSNKY under the franchise agreement and posed a risk of substantial and immediate harm to Stanley Steemer.

53. In January 2013, a representative of Stanley Steemer called Ms. Voges to inquire into the status of her operations and to discuss a negotiated resolution to acquire her franchise.

54. As pre-instructed by Mr. Deters, Susan Voges advised the Stanley Steemer representative that she was represented by counsel and directed that representative to call Mr. Deters for all further discussions.

55. The Stanley Steemer representative was anxious to resolve the matter and promptly called Mr. Deters at EDP. The representative was told that Mr. Deters was not available, and he left a message identifying himself and the purpose of the call, asking Mr. Deters to return the call and leaving his contact information.

56. Mr. Deters did not return the call from the Stanley Steemer representative.

57. Notwithstanding Mr. Deters' failure or refusal to return his call, the representative of Stanley Steemer continued to try to contact Mr. Deters.

58. For a week or more, Mr. Deters didn't return the call from the Stanley Steemer representative. Ultimately, on or about January 15, 2013, Eric Deters sent a curt letter to the Stanley Steemer representative which stated, in its entirety:

You breached your agreement. We are moving on. Any legal action against them will result in a counterclaim. We will also lead a very public attack as a defense against Stanley Steemer's franchising practices and policies. You don't want this fight. Yes. I do represent them.

59. A copy of the January 15, 2013 letter sent by Mr. Deters to the Stanley Steemer representative is attached to this Complaint as Exhibit A.

60. At no time did Eric Deters, on the Plaintiffs' behalf and as their legal counsel, inquire into Stanley Steemer's intentions or invite discussion, inquiry, or negotiation with Stanley Steemer.

61. Predictably, in light of Mr. Deters' correspondence and threats, as well as his hostile and close-minded attitude, Stanley Steemer became convinced that it couldn't negotiate a reasonable agreement with Susan Voges and SSNKY, and that it had no choice but to spend resources to sue Susan Voges, Jeffrey Voges and SSNKY and seek prompt relief to protect its rights under its franchise agreement with Ms. Voges and SSNKY.

62. On January 17, 2013, Stanley Steemer filed against Susan Voges, Jeffrey Voges and SSNKY, in the United States District Court for the Southern District of Ohio in Columbus, Ohio, a lawsuit styled *Stanley Steemer Int'l, Inc. v. Susan Hurley*, case no. 2:13-CV-0050.

63. Concomitant with filing the Complaint, Stanley Steemer filed a motion seeking a temporary restraining order against Susan Voges, Jeffrey Voges and SSNKY, and sought a prompt hearing before the Court with respect to that motion.

64. By the Complaint and motion for temporary restraining order, Stanley Steemer sought to prohibit Ms. Voges, Mr. Voges, and/or SSNKY from using the franchise's longstanding telephone number, carpet cleaning equipment and methods, and

unique yellow color on business trucks.

65. The federal court scheduled a hearing on the motion for temporary restraining order for the following day, January 18, 2013.

66. Stanley Steemer promptly served Mr. Deters with a copy of the Complaint and motion for temporary restraining order filed in the federal court.

67. By and through its counsel, Stanley Steemer also informed Mr. Deters of the hearing set in federal court for the next day with respect to Stanley Steemer's motion for a temporary restraining order.

68. Mr. Deters advised Jeff Voges of the imminent hearing in Columbus, Ohio, but opined that it would be inconceivable that a court would hold an evidentiary hearing on such short notice, and that Ms. Voges, Mr. Voges, and SSNKY shouldn't worry about the hearing.

69. On the morning of January 18, 2013, Mr. Deters spoke with the office of the federal judge in Columbus, Ohio that had been assigned to oversee the motion filed by Stanley Steemer. Upon information and belief, Mr. Deters asked for a delay of the hearing, but was rejected, and asked to participate by telephone, which was also rejected.

70. Mr. Deters called Jeffrey Voges to advise that the federal court in Columbus would hold a hearing on Stanley Steemer's motion in just a few hours in Columbus. Mr. Deters informed Jeffrey Voges that both he and Susan Voges had to attend the hearing that was scheduled to start in a few hours in Columbus, Ohio.

71. Mr. Deters also told Jeffrey Voges that he, *i.e.*, Eric Deters, was unavailable to attend the hearing, but that, for a fee of \$2,000, he would send an attorney from his office to represent Susan Voges, Jeffrey Voges, and SSNKY at the hearing, and that he

would represent them in the lawsuit. Mr. Voges agreed to the terms.

72. During this telephone call on January 18, 2013, Eric Deters expressed concern that his absence from the hearing in federal court would anger the federal judge; thus, Eric Deters, in an artifice designed to pacify the federal court, instructed Jeffrey Voges to instruct that he, Susan Voges, and SSNKY could not afford the fee so that Eric Deters could tell the federal judge that he did not represent them in the federal case.

73. The representation which Eric Deters instructed Jeffrey Voges to make to the federal judge, *i.e.*, that the Defendants in the federal case could not afford Mr. Deter's fee, was false.

74. Eric Deters then instructed Jeffrey Voges not to call the Court. He advised Jeffrey Voges that it was not necessary to attend the hearing in Columbus, and that the Court would not grant a restraining order on such short notice. He instructed Jeffrey Voges not to answer any further calls from the Court in Columbus. Because he had advised that no one should appear at the hearing in Columbus, Eric Deters, for himself and his law firm, dropped his fee to \$1,500, and Mr. Voges paid the fee on behalf of all the Plaintiffs herein.

75. Eric Deters continued to advise Susan Voges, Jeffrey Voges and SSNKY that Stanley Steemer could not succeed in their federal lawsuit and that the Susan and Jeffrey Voges had the right to establish and operate their new carpet cleaning business in Cincinnati and Northern Kentucky using the franchise's telephone number, equipment, and yellow trucks.

76. Eric Deters continued to promise and commit to mount an aggressive defense of the federal lawsuit on behalf of Susan Voges, Jeffrey Voges and SSNKY,

including the filing of a counterclaim against Stanley Steemer.

77. However, Mr. Deters failed to attend the hearing on the motion for temporary restraining order in the federal lawsuit and failed to take any action to apprise the federal court of his supposed inability to attend.

78. Instead, at about 11:00 a.m. on January 18, 2013, upon information and belief Mr. Deters contacted the federal court and falsely represented to the federal judge (or his staff) that he was no longer representing Susan Voges, Jeffrey Voges and SSNKY.

79. At no time did Mr. Deters tell Susan Voges, Jeffrey Voges or SSNKY that he would actually no longer represent them in any dispute with Stanley Steemer, let alone the federal lawsuit.

80. Notwithstanding the fact that Susan Voges, Jeffrey Voges and SSNKY had retained the legal services of Eric Deters and EDP, Ms. Voges, Mr. Voges, and SSNKY were left without any representation or defense at the hearing in the federal court on Stanley Steemer's motion for temporary restraining order.

81. Having retained the services Eric Deters and EDP to address matters relating to Stanley Steemer and the federal lawsuit, having been apparently abandoned by Mr. Deters on the eve of a critical hearing (without Mr. Deters taking any actions to ensure the retention of new counsel to protect the interests of Susan Voges, Jeffrey Voges and SSNKY), Ms. Voges, Mr. Voges, and SSNKY were left unrepresented at the January 18 hearing.

82. As a result of the January 18 hearing, the federal judge granted Stanley Steemer's motion for temporary restraining order, effectively demolishing the business of Custom Clean Carpet Cleaners.

83. A copy of the federal judge's entry granting a temporary restraining order dated January 18, 2013, is attached hereto as Exhibit B.

84. After commencement of the lawsuit in federal court and contrary to his earlier advice, Mr. Deters told Susan Voges, Jeffrey Voges and SSNKY that they had no legal right to establish a business in competition with Stanley Steemer and that they could not use the franchise's longstanding telephone number, its carpet cleaning equipment, or its trucks so long as they were painted in Stanley Steemer's unique yellow color.

85. Contrary to his earlier advice and commitment of providing an aggressive fight against any claims by Stanley Steemer, and despite the earlier payment of a retainer, Mr. Deters never:

- appeared at any hearing in the case;
- responded to Stanley Steemer's motion for temporary restraining order;
- responded to Stanley Steemer's request for more permanent injunctive relief;
- answered the Complaint;
- filed a counterclaim, as promised;
- filed any document, defense, or claim on his clients' behalf.

86. Instead, after commencement of the lawsuit in federal court and contrary to his earlier advice, Mr. Deters further advised Susan Voges, Jeffrey Voges and SSNKY that they had no viable defense to Stanley Steemer's claims and that they should settle with Stanley Steemer on terms that would minimize the damages for which the Vogeses would become liable, and that they must submit to a permanent injunction.

87. Based on the complete repudiation of his earlier legal advice to Ms. Voges,

Mr. Voges, and SSNKY and in light of the issuance of the temporary restraining order by the federal court, Mr. Deters assigned the case to an attorney with no applicable legal experience and, contrary to his earlier representations to Ms. Voges, Mr. Voges, and SSNKY, instructed the associate to “negotiate” a settlement that foreclosed the clients from using the telephone number and the yellow truck colors they had used for 20 years to advertise their business.

88. Based on the complete repudiation of his earlier legal advice to Ms. Voges, Mr. Voges, and SSNKY, and in light of the issuance of the temporary restraining order by the federal court, Ms. Voges received nothing for her franchise rights and Stanley Steemer took over Ms. Voges’ telephone number and franchise area.

89. Prior to (and even after) commencing the federal court action, Stanley Steemer remained interested in trying to negotiate a resolution of its dispute with Susan Voges by allowing the sale of, or even buying, Ms. Voges’ Stanley Steemer franchise. However, due to the bellicose posturing and attitude exemplified by Eric Deters (see Exhibit A) and having been forced to spend significant funds to finance the unwanted litigation, any potential anticipated offer of settlement to Ms. Voges would rapidly diminish.

90. Stanley Steemer repeatedly tried to reach Mr. Deters to discuss settlement of the issues, but Mr. Deters wouldn’t respond to the overtures and, instead, undertook an unfounded and unjustified bellicose posture and attitude towards any amicable resolution with Stanley Steemer on his clients’ behalf, even though such actions lacked any reasonable legal basis.

Count I
Legal Malpractice

91. An attorney-client relationship existed between Susan Voges, Jeffrey Voges and SSNKY, on the one hand, and Eric Deters and EDP, on the other hand.

92. Accordingly, Mr. Deters and EDP owed Susan Voges, Jeffrey Voges and SSNKY a duty to act with the skill and care of a reasonably prudent attorney acting in the same or similar circumstances.

93. Mr. Deters and EDP, breached the duties they owed to Susan Voges, Jeffrey Voges and SSNKY to act with the skill and care of a reasonably prudent attorney acting in the same or similar circumstances.

94. Among other things, Mr. Deters also owed particular duties:

- To provide competent and diligent representation to Susan Voges, Jeffrey Voges and SSNKY and not to undertake their representation without the requisite legal knowledge, thoroughness, and preparation.
- To keep Susan Voges, Jeffrey Voges and SSNKY reasonably informed regarding the status of the matter.
- To maintain candor and truthfulness with the Court and refrain from making false representations, or facilitating his clients' false representations, to the Court.
- To refrain from communications likely to create unjustified expectations about the results he could or would achieve for Susan Voges, Jeffrey Voges and SSNKY.

95. As an attorney, Eric Deters and, through him, EDP, breached the duties they

owed to Susan Voges, Jeffrey Voges and SSNKY, including, without limitation, the foregoing duties. Among other things and without limitation, Eric Deters and EDP:

- failed to provide competent and diligent representation to Susan Voges, Jeffrey Voges and SSNKY with respect to their dealings with Stanley Steemer;
- misinformed Susan Voges, Jeffrey Voges and SSNKY of their legal rights and obligations to Stanley Steemer;
- undertook representation and otherwise provided legal advice without the requisite knowledge, thoroughness, and preparation, including becoming fully aware of all pertinent facts and terms of a written franchise agreement;
- failed to timely advise Susan Voges, Jeffrey Voges and SSNKY of the hearing on Stanley Steemer's motion for a temporary restraining order; advising and encouraging his client to lie to a federal court regarding his reasons for not attending a hearing; and
- unilaterally and falsely disavowed to a federal court the continue representation of Susan Voges, Jeffrey Voges and SSNKY;

96. As a direct and proximate result of the breaches of the duties that Eric Deters and EDP owed to Susan Voges, Jeffrey Voges and SSNKY, Plaintiffs herein have suffered damages, including, without limitation, the loss of the potential sale to Stanley Steemer of Susan Voges' franchise at its fair market value, expected to be approximately \$500,000.

WHEREFORE, Susan Voges, Jeffrey Voges and SSNKY ask the Court for judgment in their favor and against Eric Deters and EDP, jointly and severally, for:

- an award of damages in an amount to be determined at trial;
- an award of the costs of this action, including attorney fees; and
- any other relief to which Plaintiffs may be entitled, in law or in equity, including reasonable attorneys fees.

Respectfully submitted

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