

STATE OF MAINE  
PENOBSCOT, SS.

SUPERIOR COURT  
Civil Action  
Docket No. 11077

WHITNEY W. AUSTIN, d/b/a ]  
AUSTIN'S AUTO SALES, of ]  
510 Broadway, City of Bangor, ]  
County of Penobscot, State ]  
of Maine ]  
Plaintiff ]  
v. ]  
JAMES S. ERWIN, in his ]  
capacity as Attorney General ]  
of the State of Maine, ]  
Augusta, County of Kennebec, ]  
State of Maine, ]  
Defendant ]

ORDER DISSOLVING  
TEMPORARY RESTRAINING  
ORDER and DENYING  
DEFENDANT'S MOTION TO  
SET ASIDE NOTICE AND  
DEMAND

This matter came on to be heard on Plaintiff's complaint and motion, with supporting affidavit, seeking to modify or set aside notice and demand and pursuant to orders of this Court entered on the 4th day of December, 1972, and after due notice, the Court having considered the affidavits presented by counsel and having considered the arguments of counsel and being advised in the premises,

It is ADJUDGED and ORDERED as follows:

1. Defendant's Complaint for a Preliminary Injunction having been withdrawn, the Temporary Restraining Order is dissolved.
2. Defendant's Motion to Set Aside Notice and Demand is denied (except that by agreement of counsel, argument on the issues involved in paragraphs 2 and 5 of Plaintiff's motion has been reserved and paragraph 4 has been resolved by agreement of counsel).
3. The civil investigation No. 169 which was scheduled for the 7th day of December, 1972 at 10 A.M. in

the forenoon shall be held on or before the 28th day of  
December, 1972.

DATED at Bangor, Maine this                    day of December, 1972.

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DAVID G. ROBERTS  
Justice, Superior Court

12-4-72

STATE OF MAINE  
PENOBSCOT, ss.

SUPERIOR COURT  
CIVIL ACTION  
DOCKET NO. \_\_\_\_\_

WHITNEY W. AUSTIN, d/b/a )  
AUSTIN'S AUTO SALES, of )  
510 Broadway, City of Bangor, )  
County of Penobscot, State of )  
Maine, )  
Plaintiff )

vs. )

COMPLAINT IN EQUITY  
FOR INJUNCTION

JAMES S. ERWIN, in his )  
capacity as Attorney General )  
of the State of Maine, )  
Augusta, County of Kennebec, )  
State of Maine, )  
Defendant )

1. On or about September 15, 1972, an agent of Defendant stated to Plaintiff that he may be charged criminally for violation of law because of an alleged turning back of an odometer of a motor vehicle.

2. On or about November 20, 1972, Plaintiff was served with a notice to produce and make available for inspection and copying or reproduction and delivery to the members of the Attorney General's staff documental material alleged to be in the possession, custody or control of Plaintiff.

3. P.L. 1970, c. 577, §1 (5 M.R.S.A., §211) provides in part:

"At any time prior to the date specified in the notice, or within 21 days after the notice has been served, whichever period is shorter, the Court may, upon motion for good cause shown, extend such reporting date or modify or set aside such demand. The motion may be filed in the Superior Court of the County in which the person served resides or has his equal place of business or in Kennebec County."

4. Plaintiff desires to file a Motion and have a hearing thereon, and attaches said Motion herewith.

WHEREFORE, Plaintiff demands that this Honorable Court:

1. Set aside such notice and demand, or,
2. Extend such reporting date and modify said notice and demand consistent with the limitations expressed in the attached Motion, and
3. Issue such Orders as are appropriate and just in the premises.

Dated: December 4, 1972

Garth K. Chandler  
Garth K. Chandler  
A Member of the Firm of  
Twitchell, Gray & Linscott  
Attorneys for Plaintiff  
50 Columbia Street  
Bangor, Maine

AFFIDAVIT

1. My name is Whitney W. Austin. I am a resident of Bangor, Maine.
2. On or about September 15, 1972 (I am not certain of the exact date) a person identifying himself as Marvin Ellis came to my place of business in Bangor, Maine.
3. Mr. Ellis identified himself as a member of the Attorney General's staff in Augusta, showed me his badge and we had a discussion.
4. In the course of the discussion, Mr. Ellis accused me of selling an automobile to a person in Mars Hill, Maine after setting the mileage back 50,000 miles on the automobile.
5. In the course of the discussion, Mr. Ellis told me I would be charged in Court.
6. In the course of the discussion, Mr. Ellis told me I could receive a fine of \$1,000.00 for each 10,000 miles or a \$5,000.00 fine and a jail sentence.
7. In the course of the discussion, Mr. Ellis told me I would be hearing from him again.

Verification

I hereunto affix my signature and make oath that the above is true to the best of my knowledge, information and belief.

Dated: December 4, 1972

Whitney W. Austin, Sr.

State of Maine

Penobscot, ss.

December 4, 1972

Subscribed and sworn to before me this 4th day of  
December, 1972.

Garth K. Chandler

Attorney at Law

STATE OF MAINE  
PENOBSCOT, ss.

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510 Broadway, City of Bangor, )  
County of Penobscot, State )  
of Maine, )  
Plaintiff )

vs. )

JAMES S. ERWIN, in his )  
capacity of Attorney General )  
of the State of Maine, )  
Augusta, County of Kennebec, )  
State of Maine, )  
Defendant )

VERIFICATION

Now comes Garth K. Chandler, Esq., a Member of the Firm of Twitchell, Gray & Linscott, and makes oath that the allegations of facts contained in the attached Complaint are true to the best of his knowledge, information or belief.

Dated: December 4, 1972

Garth K. Chandler  
Garth K. Chandler  
A Member of the Firm of  
Twitchell, Gray & Linscott  
Attorneys for Plaintiff  
50 Columbia Street  
Bangor, Maine

12-4-72

STATE OF MAINE  
PENOBSCOT, ss.

SUPERIOR COURT  
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 510 Broadway, City of Bangor, )  
 County of Penobscot, State of )  
 Maine, )  
 Plaintiff )  
 vs. )  
 JAMES S. ERWIN, in his )  
 capacity as Attorney General )  
 of the State of Maine, )  
 Augusta, County of Kennebec, )  
 State of Maine, )  
 Defendant )

ORDER OF  
NOTICE FOR HEARING

It is hereby ordered that James S. Erwin, in his capacity as Attorney General of the State of Maine, or his duly authorized agents named in the foregoing Motion, Order and Complaint, shall appear before this Court at 2 PM o'clock on the 11 day of December, 1972, at Bangor, Maine.

It is further ordered that the Defendant be given notice of the Order of Notice and Complaint ~~at least~~ <sup>forthwith</sup> ~~days~~ before the hearing on Plaintiff's Complaint by service of a copy of the Complaint and a copy of the Order of Notice for Hearing upon Defendant or his assistants.

Dated: December 4, 1972

/S/ DAVID G. ROBERTS  
Justice, Superior Court  
of the State of Maine

A true copy  
Attest:



Clerk.

17-0-72

STATE OF MAINE  
PENOBSCOT, ss.

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AUSTIN'S AUTO SALES, of )  
510 Broadway, City of Bangor, )  
County of Penobscot, State of )  
Maine, )  
Plaintiff )

vs. )

JAMES S. ERWIN, in his )  
capacity as Attorney General )  
of the State of Maine, )  
Augusta, County of Kennebec, )  
State of Maine, )  
Defendant )

ORDER FOR TEMPORARY  
RESTRAINING ORDER WITHOUT NOTICE

This matter came on to be heard on Plaintiff's Verified Complaint and Motion, with supporting Affidavit, seeking a restraining order pending hearing and determination of its prayer for a temporary restraining order without written or oral notice, and it appearing to the Court that immediate and irreparable injury, loss and damage will result to Plaintiff before the adverse party or his attorney can be heard in opposition, in that:

1. Plaintiff is expected by Defendant to produce and make available for inspection and copying or reproduction and delivering to members of the Attorney General's staff documental material alleged to be in the possession, custody or control of Plaintiff at a time when Plaintiff has been told that he may be charged with a criminal action by one of the agents who wants to inspect the documents pending hearing and determination of Plaintiff's prayer for a preliminary injunction, which inspection violates Plaintiff's right against self-incrimination;

2. Defendant's inspection will further damage Plaintiff by causing an expenditure of monies for which Plaintiff cannot be reimbursed.

Notice before granting this Temporary Restraining Order shall not be required because the Defendant's inspection is scheduled for December 7, 1972 at 10:00 o'clock in the forenoon and damage and injury will result to the Plaintiff before notice can be served and a hearing had;

Therefore, on Plaintiff's Motion, it is Ordered that the Defendant, James S. Erwin in his capacity as Attorney General of the State of Maine, and his staff members, and all other persons in act of concert or participation with them or either of them be, and they are hereby, restrained until the 11th day of December, 1972, from inspecting the documental material alleged to be in the possession, custody or control of Plaintiff, pending hearing and determination of Plaintiff's prayer for a preliminary injunction.

Complaint & Motion

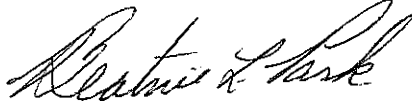
It is further Ordered that Plaintiff's ~~xxxxxx~~  
~~preliminary injunction~~ be and it hereby is set down for hearing  
before this Court at the Penobscot County Courthouse on  
December 11 , 1972, at 2 PM o'clock. ~~xxxxxx~~

This temporary restraint is ordered without the require-  
ment of security.

Issued at 4:30 o'clock A.M. this 4 day of December, 1972.

/S/ DAVID G. ROBERTS  
Justice, Superior Court  
of the State of Maine

A true copy  
Attest:

  
Clerk.



CERTIFICATE OF SERVICE

I, Garth K. Chandler, Esq., a Member of the Firm of Twitchell, Gray & Linscott, Attorneys for Plaintiff, do hereby certify that I have made due service of conformed copies of the foregoing Motion for Temporary Restraining Order Without Notice, a Verified Complaint with Motion to Set Aside the Notice of Demand, an Order for Temporary Restraining Order Without Notice, an Order of Notice for Hearing, upon John Quinn, Esq., Consumer Fraud Division, Attorney General's Office, State House, Augusta, Maine, by mailing same to him by U.S. mail, postage prepaid on this 5th day of December, 1972.

Garth K. Chandler  
Garth K. Chandler, Esq.  
A member of the firm of  
Twitchell, Gray & Linscott  
Attorneys for Plaintiff  
50 Columbia Street  
Bangor, Maine