

IN THE CIRCUIT COURT OF THE COUNTY OF ST. LOUIS  
STATE OF MISSOURI

ERIC CHEN	)	
	)	
and	)	Cause No.:
	)	
LOUISA CHEN	)	
	)	Division No.:
Plaintiffs,	)	
	)	<b>JURY TRIAL DEMANDED</b>
vs.	)	
	)	
HACKETT SECURITY INCORPORATED	)	
	)	
Serve: Michael Hackett, Registered Agent	)	
9811 South Forty Drive, Ste. 4	)	
Ladue, Missouri 63124	)	
	)	
Defendant.	)	

**PETITION FOR BREACH OF CONTRACT AND OTHER RELIEF**

Come now Plaintiffs Eric Chen and Louisa Chen (hereinafter the “Chens”) by and through counsel, and for their causes of action against Defendant Hackett Security Incorporated (hereinafter “Hackett”) state to the Court as follows:

**FACTS COMMON TO ALL COUNTS**

1. The Chens are husband and wife, are residents of St. Louis County, Missouri and are the owners of the real property known as 12837 Horton Lane, Town & Country, St. Louis County, Missouri (hereinafter the “Residence”).
2. Hackett is a provider of commercial and residential security systems and services doing business in St. Louis County, Missouri.
3. At the time the Chens purchased their Residence it was equipped with a residential security system that had been installed by and was being maintained by Hackett and which included features by which Hackett was able to monitor the Residence for security purposes,

including the detection of unauthorized access to the Property, by means of equipment provided, installed and maintained by Hackett which was connected to Hackett's offices by means of a land based telephone line (the "Security System").

4. Following the purchase of their Residence the Chens contracted with Hackett for security services related to their Residence pursuant to which Hackett agreed to maintain the Security System and to provide constant, continual and uninterrupted security monitoring services for the Residence for which the Chens paid Hackett a monthly fee.

5. Hackett, as part of their agreement to provide security monitoring services to the Chens, agreed to immediately notify the Chens in the event there were any problems with the operation of the Security System and its related equipment, agreed to immediately notify the Chens and local law enforcement authorities in the event the Security System at the Residence detected a security breach during a period of time that the Security System was "armed" and agreed to immediately contact local law enforcement authorities to request that they respond to the Residence to investigate the cause of any such security breach.

6. At all times mentioned herein the Chens were current in the payment of the monthly fees charged by Hackett for the services being provided by Hackett to the Chens related to the Security System.

7. On or about November 3, 2018 the Chens left their Residence in order to travel outside of the United States and at the time of their departure from the Residence all means of ingress and egress to their Residence were locked and the Security System was operational and was "armed".

8. On or about November 16, 2018 the Chens returned to their Residence from their trip and discovered that their Residence had been burglarized while they were out of town as a result of which with Chens suffered the loss of personal property of substantial value.

9. At no time between November 3, 2018 and November 16, 2018 did Hackett communicate with the Chens by any method or means concerning the Security System, or of any problem or failure in the operation of the Security System, or of the detection of a security breach by the Security System.

**COUNT I - BREACH OF CONTRACT**

10. The Chens re-state and incorporate by reference Paragraphs 1 – 9 of their Petition as if fully set forth herein.

11. Sometime between November 3, 2018 and November 16, 2018 the land based telephone line to the Chens' Residence was intentionally damaged by an unknown person or persons thereby disabling or disconnecting the telephone service to the Residence.

12. The damage to the land based telephone line caused the Security System to go "offline" such that Hackett was no longer able to monitor the Residence for security purposes.

13. Hackett was notified that it was no longer able to monitor the Residence due to a communications error with the Security System which had been caused by the damage to the land based telephone line.

14. Despite this occurrence, Hackett did not contact the Chens to inform them that the Security System had gone "offline" or that there was a communication error being reported to Hackett concerning the Security System.

15. In addition, Hackett did not notify the Chens that their Residence was no longer receiving constant, continual and uninterrupted monitoring by Hackett for security purposes.

16. Thereafter, Hackett never notified the Chens that the Security System detected a security breach at their Residence during a period of time that the Security System was “armed” and never notified the Chens that someone had gained access to the Residence and committed a burglary.

17. Furthermore, Hackett never notified local law enforcement authorities that the Security System detected a security breach at the Residence and never requested that local law enforcement authorities respond to the Residence to investigate the circumstances as a consequence of which local law enforcement authorities never responded to the Residence to investigate the cause of the security breach based upon a notification from Hackett.

18. Hackett breached its contractual obligations to the Chens in one or more of the following respects, to wit:

- a. Hackett failed to design, install, upgrade, or maintain the Security System in a manner that would permit constant, continual and uninterrupted security monitoring services to the Residence;
- b. Hackett failed to adequately monitor the operation of the Security System by failing to observe, detect, identify, respond to or remediate a communication error being reported to Hackett with respect to the operation of the Security System;
- c. Hackett failed to timely notify the Chens that the Security System at the Residence had gone “offline”;
- d. Hackett failed to timely notify the Chens that there was a communication error being reported with respect to the Security System at the Residence;
- e. Hackett failed to timely notify the Chens that their home was no longer receiving constant, continual and uninterrupted monitoring by Hackett for security purposes;

- f. Hackett failed to timely notify the Chens that the Security System detected a security breach at their Residence during a period of time that the Security System was “armed”;
- g. Hackett failed to timely notify the Chens that someone had gained access to the Residence and committed a burglary;
- h. Hackett failed to timely notify local law enforcement authorities that the Security System detected a security breach at the Residence and failed to request that local law enforcement authorities respond to the Residence to investigate those circumstances.

19. As a direct result of Hackett’s breach of its contractual obligations to the Chens the Chens suffered the loss of personal property of substantial value of approximately \$391,924.00 due to a burglary that was committed at the Residence between November 3, 2018 and November 16, 2018 during which Hackett failed to properly monitor the Residence and failed to timely notify the Chens and local law enforcement authorities of the detection of a security breach by the Security System at the Residence and the Chens were damaged in said amount.

20. On information and belief, Hackett’s breach of its contractual obligations to the Chens allowed the burglary to proceed uninterrupted and precluded a response by local law enforcement authorities which would have prevented the loss sustained by the Chens.

21. At all times mentioned herein the Chens fully complied with their obligations to Hackett related to the Security System and the matters referred to hereinabove.

Wherefore, Plaintiffs Eric Chen and Louisa Chen pray the Court to enter judgment in their favor and against Defendant Hackett Security Incorporated in the amount of \$391,924.00, subject to proof at trial, and for an award of their costs and expenses incurred herein and for such other and further orders as the Court finds just and proper herein.

**COUNT II - BREACH OF COVENANT OF GOOD FAITH AND FAIR DEALING**

22. The Chens re-state and incorporate by reference Paragraphs 1 – 21 of their Petition as if fully set forth herein.

23. There is an implied covenant of good faith and fair dealing in the contract between the Chens and Hackett related to Hackett’s agreement to maintain the Security System and to provide security monitoring services for their Residence

24. Hackett was required, by the agreement, to exercise judgment with regard to determining the equipment, methods and manner for providing security services to the Chens for the Residence.

25. Hackett breached its duty of good faith and fair dealing, and evaded the spirit of the agreement so as to deny the Chens the expected benefit of the same, by exercising judgment that:

(a) resulted in the provision by Hackett of inadequate security system equipment and monitoring services for the Residence which exposed the Chens to a risk of loss; and/or

(b) resulted in the installation and/or maintenance of security system equipment which utilized a land based telephone line in order to provide security monitoring of the Residence when Hackett knew or should have known that a land based telephone line could be damaged or disabled, thereby preventing Hackett from monitoring the Residence for security purposes in the manner that Hackett agreed to provide to the Chens; and/or

(c) resulted in the design of a security system that was defective in that it utilized a land based telephone line in order to provide security monitoring of the Residence when Hackett knew or should have known that a land based telephone line could be damaged or disabled, thereby preventing Hackett from monitoring the Residence for security purposes in the manner that Hackett agreed to provide to the Chens; and/or

(d) resulted in the Hackett's failure to adequately monitor the operation of the Security System or to observe, detect, identify, respond to or remediate a communication error being reported to Hackett and/or to timely notify the Chens and local law enforcement authorities of a breach of the Security System at the Residence.

26. Hackett further breached its duty of good faith and fair dealing to the Chens in that in the exercise of judgment conferred by the terms of their agreement, it evaded the spirit of the transaction so as to deny the Chens the expected benefit of the same by exposing the Chens to a risk of financial loss due to theft by reason of access to the Residence by unauthorized persons during a period of time when the Security System being monitored by Hackett was "armed".

27. As a result of Hackett's breach of the implied covenant of good faith and fair dealing the Chens suffered the loss of a personal property of substantial value of approximately \$391,924.00, subject to proof at trial, and the Chens were damaged in said amount.

Wherefore, Plaintiffs Eric Chen and Louisa Chen pray the Court to enter judgment in their favor and against Defendant Hackett Security Incorporated in the amount of \$391,924.00, subject to proof at trial, and for an award of their costs and expenses incurred herein and for such other and further orders as the Court finds just and proper herein.

### **COUNT III – VIOLATION OF THE MISSOURI MERCHANDISING PRACTICES ACT**

28. The Chens re-state and incorporate by reference Paragraphs 1 – 27 of their Petition as if fully set forth herein.

29. The Chens purchased security services from Hackett for personal, family or household purposes.

30. Hackett, in connection with the sale and advertisement of security services to the Chens used or employed deception, fraud, false promises, misrepresentation, concealment or omission of material fact in that Hackett represented that the Security System and monitoring services provided by Hackett would provide constant, continual and uninterrupted security monitoring of the Chen's Residence, and Hackett knew or should have known that such representation was false in that the monitoring services provided by Hackett were dependent upon the integrity of a land based telephone line which, if damaged or disabled, would prevent Hackett from being able to provide constant, continual and uninterrupted security monitoring services.

31. Hackett, in connection with the sale and advertisement of security services to the Chens used or employed deception, fraud, false promises, misrepresentation, concealment or omission of material fact in that Hackett concealed, suppressed, omitted and failed to disclose to the Chens that the security monitoring services provided by Hackett were dependent upon the integrity of a land based telephone line which, if damaged or disabled, would prevent Hackett from providing constant, continual and uninterrupted security monitoring services.

32. As a direct and proximate result of Hackett's deception, fraud, false promises misrepresentation, concealment or omission of material fact the Chens sustained actual damages and suffered the loss of personal property of substantial value of approximately \$391,924.00 due to Hackett's failure to provide constant, continual and uninterrupted security monitoring services.

33. Hackett's conduct as set forth above was intentional, wanton and malicious and/or demonstrated reckless indifference to the rights of others, including the Chens, and/or Hackett knew or had information from which in the exercise of ordinary care it should have known that its conduct created a high degree of probability of loss, in that Hackett knew that the Chen's residence would be susceptible to a security breach and the risk of loss by theft in the event the land based



telephone line was damaged or disabled, and, Hackett's actions as set forth above violated §407.020 RSMo., such that the Chens are entitled to an award of punitive damages in an amount in excess of \$1,000,000.00, subject to proof at trial, to punish and deter Hackett and others from like conduct in the future.

34. §407.025 RSMo. provides that the Court may award attorney's fees to a prevailing party based upon the amount of time reasonably expended in an action pursuant to said provision and the Chens have and will incur attorney's fees and costs prosecuting their claims against Hackett pursuant to §407.025 RSMo.

Wherefore, Plaintiffs Eric Chen and Louisa Chen pray the Court to enter judgment in their favor and against Defendant Hackett Security Incorporated in an amount of \$391,924.00, subject to proof at trial, for an award of punitive damages in the amount of \$1,000,000.00 or in such other amount determined by the finder of fact to punish and deter Hackett and others from like conduct in the future and for an award of their attorney's fees, costs and expenses incurred herein and for such other and further orders as the Court finds just and proper herein.

**JAMES, HUTCHISON & FORTH, P.C.**

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