

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

**In the Matter of the Complaint of  
Timothy S. and Teri L. Turnbull,**

**Complainants,**

**v.**

**Verizon North Inc.,**

**Respondent.**

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)  
)  
)

**Case No. 09-571-TP-CSS**

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**ANSWER AND AFFIRMATIVE DEFENSES  
OF VERIZON NORTH INC.**

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Verizon North Inc. ("Verizon"), through its counsel, answers the July 3, 2009 Complaint ("Complaint") of Timothy S. and Teri L. Turnbull ("Complainants") and raises its affirmative defenses thereto as follows:

**A. ANSWER**

**Page 1 of the Complaint**

1. Verizon lacks knowledge or information sufficient to form a belief as to the truth of the matters asserted regarding Complainants' discussions with PUCO personnel and therefore denies them.

2. Verizon admits that Complainants' residence is served by some facilities that are not presently permanently buried or aerial. Answering further, Verizon states that it is in the process of installing poles and aerial facilities to serve Complainants.

**Page 2 of the Complaint**

3. Verizon admits that Complainants have placed more than one service call regarding their telephone service.

4. Verizon denies that there are consistently broken wires, static and no dial tone on Complainants' line.

5. Verizon admits that Verizon has sent a repair technician to Complainants' residence in response to service calls, but denies that its repair technician stated that Verizon has chosen to ignore Complainants' concerns.

6. Verizon admits that it maintains records of Verizon's repairs to Complainants' line.

7. Verizon lacks knowledge or information sufficient to form a belief as to the truth of the matters asserted regarding Complainants' discussions with PUCO personnel and therefore denies them.

8. Verizon lacks knowledge or information sufficient to form a belief as to the truth of the matters asserted in the final sentence of the second page of the Complaint regarding Complainants' actions and therefore denies them.

**Page 3 of the Complaint**

9. Verizon admits that the first sentence of the third page of the Complaint states Complainants' requested relief, but denies that any facility can be 100% immune from occasional disruptions.

10. Verizon denies that Complainants are entitled to punitive damages, denies that Complainants can seek any form of recovery on behalf of their neighbors, and further

denies that the PUCO has jurisdiction to award punitive damages or damages to Complainants on behalf of their neighbors.

11. Verizon denies that Complainants are entitled to damages for “duress,” and further denies that the PUCO has jurisdiction to award damages for emotional distress.

12. Verizon denies that it is in breach of any responsibilities to Complainants, and denies that it has violated any Ohio statutes or rules of the Commission.

13. Verizon admits that Complainants have paid their bills, but answering further, states that Verizon has provided bill credits to Complainants in compliance with the requirements of O.A.C § 4905:1-5.

14. The allegations of the sixth and seventh sentences of the third page of the Complaint require no response from Verizon.

15. Verizon lacks knowledge or information sufficient to form a belief as to the origin or authenticity of the photos attached to the Complaint and therefore denies their relevance in this proceeding.

## **B. AFFIRMATIVE DEFENSES**

1. **No Violation of R.C. § 4905.26.** The Complaint fails to state grounds for a complaint against Verizon pursuant to R.C. § 4905.26 because Complainant has not alleged any violation of any rules, regulations or laws that would constitute a violation of R.C. § 4905.26. Because Complainant has not shown that Verizon has taken any unlawful actions under R.C. § 4905.26, the Complaint should be dismissed.

2. **Lack of Commission Jurisdiction.** The Commission has no jurisdiction over Complainants' claims for punitive damages and/or damages for "duress" or emotional distress, which arise in tort. Because the Commission has no authority to award the relief sought, the Commission lacks jurisdiction over the Complaint and the relief requested therein. The Complaint should therefore be dismissed.

3. **Complainants' Violation of Tariffs.** Phone calls to the number listed in the Complaint are answered in the name of "A-1 Reptiles & A-1 Daylilies," which is also the complaining company name listed in informal complaint No. TTUR103007S7. A-1 Reptiles operates a commercial website that lists Complainants' phone number as its "Order Line." See <http://www.a1reptiles.net/>; see also **Exhibit 1** hereto, which is a true and correct printout of the A-1 Reptiles home page. A-1 Daylilies operates a commercial website that lists Complainants' phone number as its "Daylily Order Line" and lists Complainants' address as A-1 Daylilies' mailing address. See <http://www.a1daylilies.com/>; see also **Exhibit 2** hereto, which is a true and correct printout of the A-1 Daylilies home page. Complainants are in violation of Verizon's tariffs by obtaining business service at residential service rates. In light of Complainants' breach of the provisions and restrictions of Verizon's tariffs, including, but not limited to, General Exchange Tariff P.U.C.O. No. 7, Sec. 3, Sheet No. 2 and Revised Sheet No. 46, the Complaint is barred and must be dismissed because Complainants are obtaining service illegally.

4. **Actions of Unknown Third Parties.** On information and belief, Complainants' line has been damaged by the actions of unknown third parties for whom

Verizon is not liable. Verizon has repaired Complainants' line after such incidents, restoring service to Complainants, and the Complaint must therefore be dismissed.

5. **Satisfaction Pursuant to O.A.C. 4901-9-01.** Complainants' service is restored and operational, and the Complaint has thus been satisfied by work performed by Verizon. In addition, as noted in Paragraph 2 of Verizon's Answer, Verizon is in the process of installing poles and aerial facilities to serve Complainants. Complainants are not entitled to any further relief. Pursuant to O.A.C. 4901-9-01(F), Complainants have twenty (20) days to file a written response agreeing or disagreeing with the satisfaction of the Complaint. If no response is filed, the Commission may presume that the Complaint has been satisfied and dismiss it.

**WHEREFORE**, Verizon North Inc. requests that the Complaint be dismissed with prejudice.

Dated: July 27, 2009

Respectfully submitted,

**VERIZON NORTH INC.**

By: /s/ Carolyn S. Flahive  
Thomas E. Lodge  
Carolyn S. Flahive  
THOMPSON HINE LLP  
41 South High Street, Suite 1700  
Columbus, Ohio 43215-6101  
(614) 469-3200  
(614) 469-3361 FAX  
Tom.Lodge@thompsonhine.com  
Carolyn.Flahive@thompsonhine.com

Of Counsel:

A. Randall Vogelzang  
General Counsel  
Verizon Great Lakes Region  
600 Hidden Ridge, HQE02J27  
Irving, TX 75038  
(972) 718-2170  
(972) 718-0936 FAX  
[randy.vogelzang@verizon.com](mailto:randy.vogelzang@verizon.com)

Deborah Kuhn  
Assistant General Counsel  
Verizon Great Lakes Region  
205 North Michigan Avenue  
Suite 1100  
Chicago, Illinois 60601  
(312) 260-3326  
(312) 470-5571 FAX  
[deborah.kuhn@verizon.com](mailto:deborah.kuhn@verizon.com)

Its Attorneys

## CERTIFICATE OF SERVICE

I hereby certify that I have forwarded a copy of the foregoing *Answer and Affirmative Defenses of Verizon North Inc.* upon:

Timothy S. and Teri L. Turnbull  
4413 Greenbriar Road  
Bainbridge, OH 45612

by U.S. mail this 27<sup>th</sup> day of July, 2009.

/s/Carolyn S. Flahive  
Carolyn S. Flahive

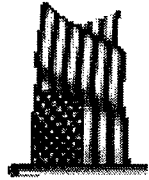
620769

EXHIBIT 1

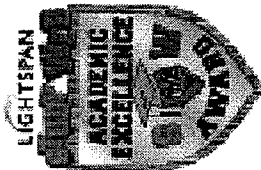
Bearded Dragons For Sale @ A-1 Reptiles

# A-1 Reptiles

Specializing in the Bearded Dragon, Veiled Chameleon & Leopard Gecko



U.S.A. text.



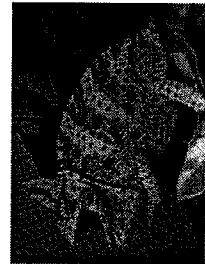
Award In Academic Excellence

- Testimonials
- Genetics
- Terms
- Food For Thought
- Links

Order Line 740-493-0029

Shipping nationwide & year round!  
All inventory is captive bred !

Celebrating 21 years in the pet industry !



Veiled Chameleon



Bearded Dragon



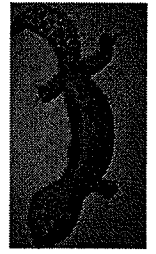
Paroedura pictus  
Gecko



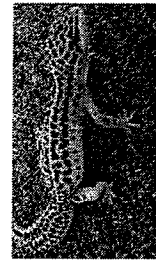




Gargoyle Gecko



Leopard Gecko



Mack Snow Leopard Gecko



Crested Gecko



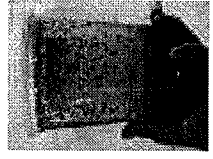
Poison Dart Frogs



White's Tree  
Frog



Viper Gecko



Flightless Fruit  
Fly Culture



Jackson Chameleon

**Copyright *A-1 Reptiles* 1990-2009  
All Rights Reserved**

EXHIBIT 2

A-1 Daylilies: Welcome to A-1 Daylily Gardens. Ohio daylily growers.



# A-1 Daylilies



Member  
American Hemerocallis  
Society

Daylily Selection

4413 Greenbriar Road

Daylily Seedlings

Bainbridge, Ohio 45612

Daylily Order

Daylily Order Line 740-493-0029

Daylily Terms & Facts

Food For Thought



Daylily Links

Specializing In AHS Registered Daylilies



Daylily of the week



State Inspected & Licensed Nursery

Shipping Nationwide

PayPal

24/7 Open Garden Dailies

24/7 Orders

July 1 through July 31 - 10 A.M. to 6 P. M.  
daily. Closed on Sunday

Orders are taken any time during the year and  
will begin shipping orders May 1 and continue  
to ship orders until September 31 each year.

Directions

## Daylily

A-B Selection G-H I-J K-L

M-N O-P O-R S-T U-V W-X Y-Z



**Abba**



**All American  
Chief**



**Amadeus**



**American Revolution**



**Anglican  
Church**



**Arabian  
Magic**



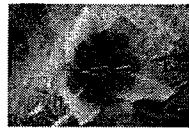
**Arc Of Doves**



**Awakening  
Dream**



**Awesome Blossom**



**Back Draft**



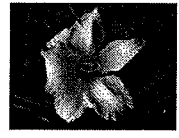
**Bama  
Bound**



**Barbara Mitchell**



**Baruch**



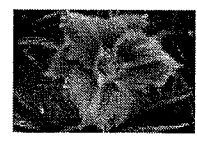
**Beautiful  
Edgings**



**Becky Lynn**



**Beware The  
Wizard**



**Beyond Belief**



**Beyond The Blue**

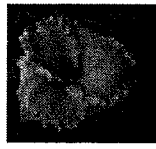


**Big Apple**



**Big Kiss**

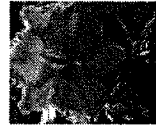




**Bill Norris**



**Blackberry Candy**



**Blessing**



**Blue Connection**



**Book Of Kells**



**Border Bride**



**Broken Heart**



**Bubbly**



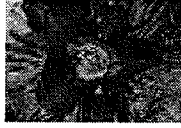
**Burning Inheritance**



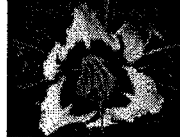
**By Myself**



**Calistoga Sun**



**Cameroon's**



**Canadian Border Patrol**



**Catherine Woodbery**



**Cedar Waxwing**



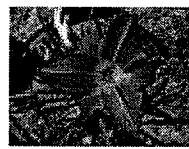
**Chance Encounter**



**Chicago Apache**



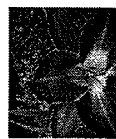
**Chicago Brave**



**Chicago Fire**



**Chicago Rosy**





**Chicago  
Scintillation**



**Chorus Line**



**Chris Salter**



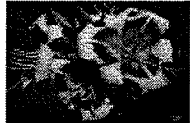
**Clincher**



**Concorde Nelson**



**Condilla**



**Daggy**



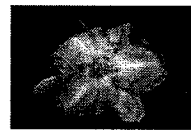
**Dark Star**



**Dora's Double**



**Dream Catcher**



**Dusty Splash**



**Elizabeth  
Salter**



**Enon**



**Fancy Face**



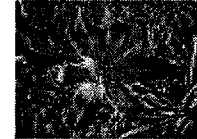
**Etched Eyes**



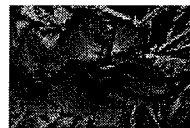
**Fire Escape**



**Fires Of Fuji**



**Firestorm**



**Flameburst**



**Flutterbye**



**Fly  
Catcher**



**Fooled Me**



**Forest  
Phantom**



**Geisha  
Maiden**



**Gentle Shepherd**

variegata



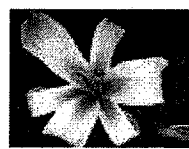
**Gloria Hite Best**



**Gordon Biggs**



**Granite City Towhead**



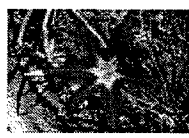
**Green Widow**



**Hillbilly Heart**



**Hemlock**



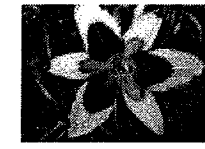
**Holly Dancer**



**Illini  
Jackpot**



**Indian Giver**



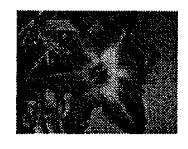
**Indian  
Sky**



**Infinity**



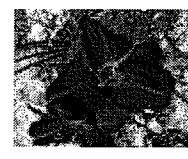
**Jack Sprat**



**Jan Zoo**



**Jim's Pick**



**John Raines**



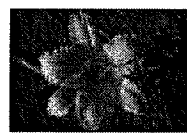
**Last Flight Out**



**Lavender Dew**



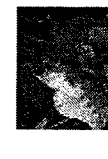
**Leah Abbott**



**Lemon Mint**



**Lin Wright**





**Live Wire Beauty**



**Liz Moldovan**



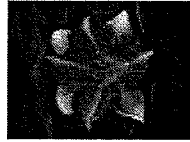
**Lois Burns**



**Long Jump**



**Madge Cayse**



**Mae Graham**



**Magic Dawn**



**Magic Filigree**



**Malachi**



**Malaysian Monarch**



**Marilyn Siwik**



**Maryland Mayhem**



**Mask Of Time**



**Maybe So**



**May May**



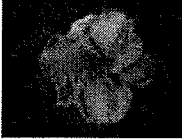
**Megan's Love**



**Midnight Raider**



**Mildred Mitchell**



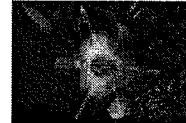
**Moonlit Caress**



**Moonlit Masquerade**



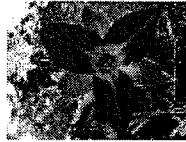
**Mount**



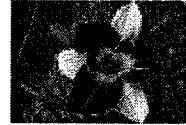
**Nile Plum**



**Ocean Rain**

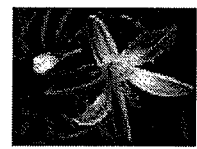


**Olallie Red**

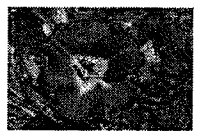


**Old King Cole**

Helena



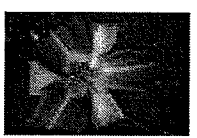
Orchid Majesty



Pardon Me



Pirates Patch



Red Shadows



Outrageous



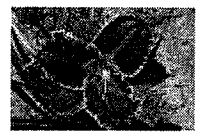
Party Partner



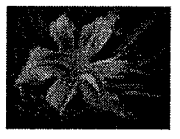
Prairie Blue Eyes



Red Coral



Pagan Ritual



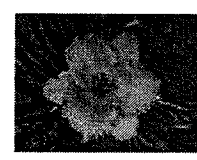
Patsy Bickers



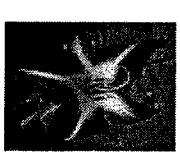
Proud Mary



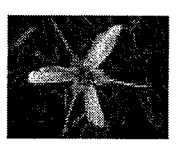
Red Showcase



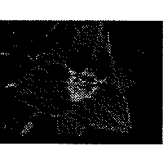
Palladian Pink



Peacock Maiden



Radiation Biohazard



Red Volunteer



Paper Butterfly



Pewter Lake



Raspberry Sunshine



Regency Heights







Rein DeViolettes



Rocket City



Rose Cherub



Royal Frosting



Rue Royal



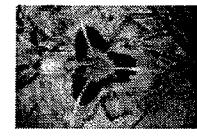
Ruby Laser



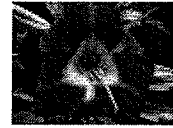
Russian Easter



Sayville



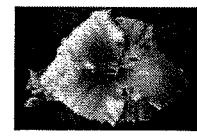
Scaramouche



Scarlet Orbit



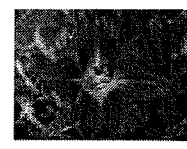
Seventeen Seventy Six



Siloam Amazing



Siloam Double Classic



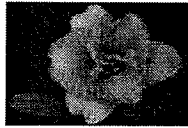
Siloam Red Ruby



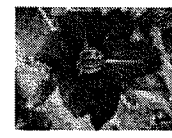
Siloam Show Girl



Siloam Tiny Tim



Simple Gifts



Smoking Gun



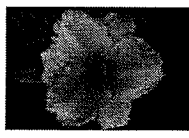
Smuggler's Gold



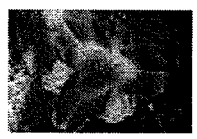
Solid Mahogany



**Spanish  
Fort**



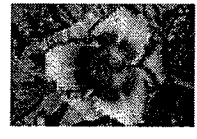
**Spiritual Corridor**



**Street Urchin**



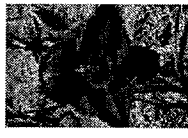
**Susan Weber**



**Super  
Purple**



**Spanish  
Glow**



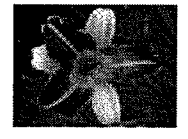
**Special Invitation**



**Spiral  
Charmer**



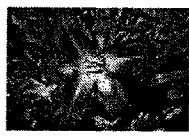
**Strawberry  
Candy**



**Strutter's  
Ball**



**Sultans Warrior**



**Sweet Sugar Candy**



**Tigger**



**Tippy Tippy  
Tin**



**Toboggan**



**Trahlyta**



**True Peace**



**Tune The Harp**



**Valley Isle**



**Wally**



**Wayside  
King  
Royal**

**Wild Horses**

**William  
Austin  
Norris**

**Wineberry  
Candy**

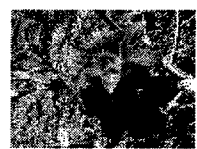
**Wine  
Delight**



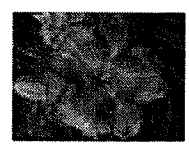
Winsome Lady



Witches Brew



Woodside  
Ruby



Wyoming  
Wildfire

## New In 2010

Blueberry Lemonade

Matt

Rose Fever

Cluster Muster

Mary's Gold

Ram

Mary Jane  
Carpenter

Susan Pritchard Petit



Forbidden Dreams



Orange Crush

**Directions To Open Garden Buys July 1 through July 31, 2009**  
**Monday through Saturday 10:00 A.M. to 6 P. M. daily and closed Sundays.**

**From Columbus, Ohio take State Route 104 South to State Route 50 West. Take State Route 50 West all the way to Bainbridge, Ohio and turn left on Potts Hill Road and follow the signs to Pike Lake and LB Camgrounds. Just past the lake turn right on the first road which is Egypt Hollow Road. Egypt Hollow Road will dead end into Greenbriar Road. Once you've reached the intersection of Egypt Hollow and Greenbriar Road our daylily farm is to the right and first driveway on the left at 4413 Greenbriar Road.**

**From Cincinnati, Ohio take State Route 50 East all the way to Bainbridge, Ohio and turn right on Potts Hill Road and follow the signs to Pike Lake and LB Camgrounds. Just past the lake turn right at the first road which is Egypt Hollow Road. Egypt Hollow Road will dead end into Greenbriar Road. Once you've reached the intersection of Egypt Hollow and Greenbriar Road our daylily farm is to the right and first driveway on the left at 4413 Greenbriar Road.**

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Summary: Answer answer and affirmative defenses electronically filed by Carolyn S Flahive on behalf of Verizon North Inc.