

IN THE COURT OF COMMON PLEAS
MUSKINGUM COUNTY, OHIO

FILED
COMMON PLEAS COURT
MUSKINGUM CO., OHIO
2017 MAY 15 AM 8:32

STATE OF OHIO, ex rel.
MICHAEL DEWINE
Attorney General of Ohio
30 East Broad Street, 14th Floor
Columbus, Ohio 43215

Plaintiff,

v.

ALAN VOHS
DBA ALAN ABLE HEATING
AND COOLING
2040 Ridge Rd.
Zanesville, Ohio 43701

Defendant.

CASE NO.

JUDGE

CH2017-0170
JUDGE FLEEGLER

**COMPLAINT AND REQUEST
FOR INJUNCTIVE AND
DECLARATORY RELIEF,
CONSUMER RESTITUTION,
AND CIVIL PENALTIES**

JURISDICTION

1. Plaintiff, State of Ohio, by and through the Attorney General of Ohio, Michael DeWine, having reasonable cause to believe that violations of Ohio's consumer laws have occurred, brings this action in the public interest and on behalf of the State of Ohio under the authority vested in him by R.C. 1345.07.
2. The actions of Defendant, as described below, have occurred in counties throughout Ohio, including Muskingum County and, as set forth below, are in violation of the Ohio Consumer Sales Practices Act ("CSPA"), R.C. 1345.01 et seq., its Substantive Rules, O.A.C. 109:4-3-01 et seq. and the Home Solicitation Sales Act ("HSSA"), R.C. 1345.21 et seq.

3. Jurisdiction over the subject matter of this action lies with this Court pursuant to R.C. 1345.04 of the CSPA.
4. This Court has venue to hear this case pursuant to Ohio Civ. R. 3(B)(3) in that Muskingum County is a county in which Defendant conducted activity that gave rise to the claim for relief.

DEFENDANT

5. Defendant Alan Vohs is a natural person whose address is believed to be 2040 Ridge Rd., Zanesville, Ohio 43701.
6. At all times relevant to this action, Defendant Vohs used the fictitious name Alan Able Heating and Cooling.
7. Defendant Vohs registered Alan Able Heating and Cooling as a trade name with the Ohio Secretary of State in 1997.
8. Defendant Vohs failed to renew Alan Able Heating and Cooling as a trade name in 2007, which resulted in the Secretary of State of Ohio canceling Vohs's recording of the trade name.
9. Defendant is a "supplier" as that term is defined in R.C. 1345.01(C), as Defendant was, at all times relevant herein, engaged in the business of effecting consumer transactions by providing services to individuals for purposes that were primarily personal, family, or household within the meaning specified in R.C. 1345.01(A) and (D).

STATEMENT OF FACTS

10. At all times relevant to this action, Defendant engaged in the business of offering and providing repairs and services as Alan Able Heating and Cooling.

11. Defendant provided goods and services, including installation of a furnace, flue pipe and exterior lights, and repairs to a heat pump and air conditioner unit.
12. In at least one instance, Defendant failed to properly install a new furnace or to return to correct the problem.
13. In at least one instance, Defendant promised the consumer that a ten year maintenance plan was included with the cost of a new heating unit, but then charged the consumer for maintenance.
14. Defendant accepted money in return for providing repair services and, despite numerous requests from consumers, never provided the repair services.
15. When consumers contacted the Defendant to complain about shoddy work, Defendant promised to return to fix the issues.
16. Despite the repeated promises and subsequent calls from consumers, Defendant failed to correct the shoddy work.
17. To date, Defendant has failed to complete or correct the services for which he was paid and has failed to issue refunds to these consumers.
18. Since 2007, Defendant has conducted business in Ohio using a fictitious business name that was not registered with the Ohio Secretary of State.
19. All facts alleged above have occurred in the last two years prior to this lawsuit.
20. On March 1, 2016, this Court entered a Final Judgment Entry and Order (“2016 Judgment”) against Defendant for violations of the CSPA that are identical to the first three Counts in this Complaint.
21. The 2016 Judgment included an award of consumer damages of \$7,912.66 to nine consumers and a civil penalty of \$10,000.

22. The 2016 Judgment permanently enjoined Defendant from committing further violations of the CSPA.
23. The 2016 Judgment permanently enjoined Defendant from engaging in business as a supplier until all judgment ordered remuneration is paid.
24. Defendant has made no payment related to the obligations under the 2016 Judgment.

PLAINTIFF'S FIRST CAUSE OF ACTION:
VIOLATIONS OF THE CONSUMER SALES PRACTICES ACT

COUNT I
FAILURE TO DELIVER VIOLATION

25. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs one through twenty-four (1-24) of this Complaint.
26. Defendant committed unfair or deceptive acts or practices in violation of R.C. 1345.02 of the CSPA and the Failure to Deliver Rule, O.A.C. 109:4-3-09(A)(2), by accepting money from consumers for repairs and services on household goods and permitting eight weeks to elapse without delivering the promised services or issuing a full refund.

COUNT II
SHODDY OR UNWORKMANLIKE SERVICES

27. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs one through twenty-six (1-26) of this Complaint.
28. Defendant committed unfair or deceptive acts or practices in violation of R.C. 1345.02(A) of the CSPA, by performing repairs and services on household goods in an incomplete, shoddy, or unworkmanlike manner.

29. Such acts or practices have been previously determined by Ohio courts to violate the CSPA, R.C. 1345.01 et seq. Defendant committed said violations after such decisions were available for public inspection.

COUNT III
FAILURE TO REGISTER FICTITIOUS NAME

30. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs one through twenty-nine (1-29) of this Complaint.
31. Defendant committed unfair or deceptive acts or practices in violation of R.C. 1345.02(A) of the CSPA, by failing to register with the Ohio Secretary of State his use of a fictitious business name, as required by R.C. 1329.01.
32. Such acts or practices have been previously determined by Ohio courts to violate the CSPA, R.C. 1345.01 et seq. Defendant committed said violations after such decisions were available for public inspection.

COUNT IV
UNSATISFIED JUDGMENT

33. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs one through thirty-two (1-32) of this Complaint.
34. Defendant committed unfair or deceptive acts or practices in violation of R.C. 1345.02(A) of the CSPA, by engaging in consumer transactions while having an unsatisfied judgment and legal obligation owed to consumers arising out of previous consumer transactions.
35. Such acts or practices have been previously determined by Ohio courts to violate the CSPA, R.C. 1345.01 et seq. Defendant committed said violations after such decisions were available for public inspection.

PLAINTIFF'S SECOND CAUSE OF ACTION:
VIOLATIONS OF THE HSSA

36. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs one through thirty-five (1-35) of this Complaint.
37. Defendant violated the HSSA, R.C. 1345.23 and R.C. 1345.02(A), by failing to provide consumers a proper notice of their right to cancel their contracts by a specific date.
38. Such acts or practices have been previously determined by Ohio courts to violate the CSPA, R.C. 1345.01 et seq. Defendant committed said violations after such decisions were available for public inspection.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this Court grant the following relief:

- A. ISSUE a permanent injunction enjoining Defendant Alan Vohs, doing business as Alan Able Heating and Cooling, or under any other names, his agents, representatives, salesmen, employees, successors, or assigns, and all persons acting in concert and participation with him, directly or indirectly, from committing any unfair, deceptive, or unconscionable act or practice that violates the CSPA, R.C. 1345.01 et seq., and its Substantive Rules, O.A.C. 109:4-3-01 et seq., including, but not limited to, violations of the specific code sections and rules set forth herein.
- B. DECLARE that each act or practice complained of herein violates the CSPA and its Substantive Rules in the manner set forth in this Complaint.

- C. ASSESS, FINE, AND IMPOSE upon Defendant a civil penalty of Twenty-Five Thousand Dollars (\$25,000.00) for each separate and appropriate violation described herein, pursuant to R.C. 1345.07(D).
- D. ORDER Defendant to pay damages, including non-economic damages, to all consumers injured by the conduct of the Defendant as set forth in this Complaint.
- E. ISSUE an Injunction permanently prohibiting Defendant from engaging in business as a supplier in any consumer transaction in the State of Ohio.
- F. GRANT the Ohio Attorney General his costs in bringing this action.
- G. ORDER Defendant to pay all court costs.
- H. GRANT such other relief as the Court deems to be just, equitable, and appropriate.

Respectfully submitted,

MICHAEL DEWINE
Ohio Attorney General



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