

FILED
LUCAS COUNTY

2015 FEB -6 P 2:14

COMMON PLEAS COURT
BERNIE QUILTER
CLERK OF COURTS

IN THE COURT OF COMMON PLEAS OF LUCAS COUNTY, OHIO

STATE OF OHIO ex rel.
Ohio Attorney General Michael DeWine
30 E. Broad Street, 14th Floor
Columbus, Ohio 43215

Plaintiff,

v.

JOSHUA SCHNABEL
d/b/a Schnabel Construction
10248 Five Point Road
Perrysburg, Ohio 43551

Defendant.

CASE NO.

CI0201501409

JUDGE

Mandros

**COMPLAINT FOR DECLARATORY
JUDGMENT, INJUNCTIVE RELIEF,
CONSUMER RESTITUTION, AND
CIVIL PENALTY**

JURISDICTION AND VENUE

1. Michael DeWine, Attorney General of Ohio, having reasonable cause to believe that violations of Ohio's consumer protection 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, hereinafter described, have occurred in Lucas County, Ohio and, as set forth below, are in violation of the 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. Defendant, as described below, is a “supplier” as that term is defined in R.C. 1345.01(C), as the Defendant was, at all times relevant herein, engaged in the business of effecting consumer transactions by soliciting and selling home improvement services to individuals in Ohio, including Lucas County, for purposes that were primarily personal, family or household within the meaning specified in R.C. 1345.01(A) and (D).
4. Defendant, as described below, engaged in “home solicitation sales” as that term is defined in R.C. 1345.21(A), as Defendant, at all times relevant herein, engaged in personal solicitations at the residences of consumers.
5. Jurisdiction over the subject matter of this action lies with this Court pursuant to R.C. 1345.04.
6. This Court has venue to hear this case pursuant to Ohio Civ. R. 3(B)(3) in that some of the transactions complained of herein, and out of which this action arose, occurred in Lucas County.

THE DEFENDANT

7. Defendant Joshua Schnabel is a natural person whose last known personal residence is 10248 Five Point Road, Perrysburg, Ohio 43551.
8. Defendant engaged in consumer transactions using the unregistered trade name Schnabel Construction.

STATEMENT OF FACTS

9. Defendant has been at all times relevant to this action engaged in the business of selling consumer goods or services, specifically home improvement services, in the State of Ohio, including in Lucas County.

10. Defendant solicited consumers at their residences for home improvement services by going door-to-door and asking for work.
11. Defendant performed home improvement services for consumers that included roofing, window installation, painting, caulking, chimney repair, and repair of a redwood outdoor swingset.
12. Defendant performed home improvement services for consumers in a shoddy or unworkmanlike manner. In some instances, Defendant's services caused additional damage to consumers' homes.
13. Defendant accepted substantial payments from consumers to purchase materials, but failed to purchase or deliver the materials to the consumers.
14. Defendant accepted substantial payments from consumers but failed to begin or complete the work for which he was paid and failed to refund the payments.
15. At the time of the transactions, Defendant failed to provide consumers with proper notices of cancellation forms describing the consumers' rights to cancel the transactions.

PLAINTIFF'S CAUSES OF ACTION

COUNT I

**FAILURE TO DELIVER GOODS AND/OR SERVICES
OR ISSUE REFUNDS**

16. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs one through fifteen (1-15) of this Complaint.
17. Defendant committed unfair or deceptive acts or practices in violation of the CSPA, R.C. 1345.02(A) and O.A.C. 109:4-3-09 by accepting money from consumers for home improvement services and materials and permitting eight weeks to elapse without delivering the promised goods or services or issuing a full refund.

COUNT II

SHODDY OR UNWORKMANLIKE SERVICES

18. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs one through fifteen (1-15) of this Complaint.
19. Defendant committed unfair or deceptive acts or practices in violation of the CSPA, R.C. 1345.02(A) by performing home improvement services in an incomplete, shoddy, or unworkmanlike manner.
20. 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 pursuant to R.C. 1345.05(A)(3).

COUNT III

FAILURE TO PROVIDE PROPER NOTICE OF THREE DAY RIGHT TO OF RECISSION

21. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs one through fifteen (1-15) of this Complaint.
22. Defendant violated the HSSA, R.C. 1345.23, and the CSPA, R.C. 1345.02(A), by failing to give a proper notice to consumers of their right to cancel their contract by a specific date.
23. Such acts or practices have been previously determined by Ohio courts to violate the CSPA, R.C. 1345.01 et seq. Defendants committed said violations after such decisions were available for public inspection pursuant to R.C. 1345.05(A)(3).

COUNT IV

FAILURE TO REGISTER WITH THE OHIO SECRETARY OF STATE

24. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs one through fifteen (1-15) of this Complaint.

25. Defendant committed unfair or deceptive acts or practices in violation of R.C. 1345.02(A) and R.C. 1329.01 by failing to register with or report the trade name Schnabel Construction to the Ohio Secretary of State.
26. Such acts and practices have been previously determined by Ohio courts to violate the CSPA. Defendants committed said violation after such decisions were available for public inspection pursuant to R.C. 1345.05(A)(3).

PRAYER FOR RELIEF

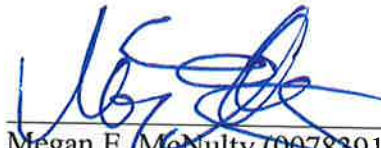
WHEREFORE, Plaintiff respectfully prays that this Court:

1. ISSUE a declaratory judgment declaring that each act or practice complained of herein violates the CSPA and the HSSA in the manner set forth in the Complaint.
2. ISSUE a permanent injunction enjoining Joshua Schnabel, doing business as Schnabel Construction, and his agents, servants, representatives, salespeople, employees, independent contractors, successors, or assigns, and all persons acting in concert or participating with him, directly or indirectly, from further violating the CSPA, R.C. 1345.01 et seq., its Substantive Rules, and the HSSA.
3. GRANT a monetary judgment against Defendant in an amount sufficient to reimburse all consumers found to have been damaged by the Defendant's unfair and deceptive acts and practices.
4. ASSESS, FINE, and IMPOSE upon the Defendant a civil penalty in the amount of Twenty-Five Thousand Dollars (\$25,000.00) for each separate and appropriate violation described herein pursuant to R.C. 1345.07(D).
5. GRANT the Ohio Attorney General his costs in bringing this action.
6. ORDER Defendants to pay all court costs.

7. GRANT such other relief as the Court deems to be just, equitable and appropriate.

Respectfully submitted,

MICHAEL DEWINE
Attorney General of Ohio



Megan E. McNulty (0078391)
Assistant Attorney General
Consumer Protection Section
One Government Center, Suite 1340
Toledo, Ohio 43604
419.245.2550 (phone)
877.588.5480 (fax)
Megan.McNulty@ohioattorneygeneral.gov