

IN THE COURT OF COMMON PLEAS
FRANKLIN COUNTY, OHIO

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

Plaintiff,)

vs.)

PEAK RESTORATION, LLC)
c/o United States Corporation)
Agents, Inc., Statutory Agent)
3250 West Market Street, Suite 205)
Fairlawn, Ohio 44333)

and)

ADAM DRZEWIECKI, Individually)
8732 Millwheel Drive)
Reynoldsburg, Ohio 43068)

Defendants.)

CASE NO.

JUDGE

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 Defendants Peak Restoration, LLC and Adam Drzewiecki, as described below, have occurred in Franklin County and several counties throughout Ohio, and as set forth below, are in violation of the Consumer Sales Practices Act, R.C. 1345.01 et seq. and its Substantive Rules, Ohio Adm. Code, 109:4-3-01 et seq.

3. Defendants, as described below, are “suppliers” as that term is defined in R.C. 1345.01(C), as the Defendants were, at all times relevant herein, engaged in the business of effecting consumer transactions by soliciting and selling home improvement services to individuals in several counties throughout Ohio, including Franklin County, for purposes that were primarily personal, family or household within the meaning specified in R.C. 1345.01(A) and (D).
4. Defendants, as described below, engaged in “home solicitation sales” as that term is defined in R.C. 1345.21(A), as Defendants were, at all times relevant herein, engaged in personal solicitations at the residence of the consumer, including solicitations in response to or following an invitation by the consumer.
5. Jurisdiction over the subject matter of this action lies with this Court pursuant to R.C. 1345.04 of the Consumer Sales Practices Act.
6. This Court has venue to hear this case pursuant to Ohio Civ. R. 3 (B)(2) in that Franklin County is the location in which the Defendant Peak Restoration, LLC had its principal place of business and Ohio Civ. R 3 (B)(3) in that Franklin County is a location where the Defendants conducted activity that gave rise to the claim for relief.

THE DEFENDANTS

7. Defendant Peak Restoration, LLC is a domestic for-profit limited liability company registered with the Ohio Secretary of State and has its principal place of business located at 881 Millstream Drive, Reynoldsburg, Ohio 43068
8. Defendant Adam Drzewiecki is a natural person whose last known personal residence is 8732 Millwheel Drive, Reynoldsburg, Ohio 43068.

9. Defendant Drzewiecki directed, supervised, approved, formulated, authorized, ratified, benefited from and/or otherwise participated in the day to day activities of the business entity known as Peak Restoration, LLC.
10. Defendant Drzewiecki operated, dominated, controlled, and directed the business activities of Defendant Peak Restoration, LLC, causing, personally participating in, and/or ratifying the acts and practices of Defendant Peak Restoration, LLC, as described in this Complaint.

STATEMENT OF FACTS

11. Defendants have been at all times relevant to this action, engaged in the selling of consumer goods or services, specifically home improvement services.
12. Defendants solicited consumers at their residences and encouraged the consumers to request money from their insurance companies to repair roofs, siding, and other exterior parts of the home.
13. At the time of the transactions, Defendants failed to provide consumers with a proper notice of cancellation form describing the consumers' rights to cancel the transactions.
14. Defendants accepted substantial down payments from consumers or directly from the consumers' insurance companies.
15. At the time of the transactions, Defendants failed to provide consumers with written notice notifying the consumers whether the deposits were refundable or under what conditions.
16. In most instances, Defendants accepted substantial payments from consumers but failed to even begin the work within eight weeks or provide a refund.
17. Consumers tried to contact the Defendants to begin or complete the work and/or to obtain a refund, but the Defendants habitually failed to return the consumers' phone calls.

18. All facts alleged above have occurred in the two years prior to this lawsuit.

PLAINTIFF'S FIRST CAUSE OF ACTION:

VIOLATION OF THE CONSUMER SALES PRACTICES ACT

COUNT I

FAILURE TO DELIVER VIOLATION

19. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in Paragraphs one through eighteen (1-18) of this Complaint.

20. Defendants committed unfair and deceptive acts and practices in violation of R.C. 1345.02 and Ohio Adm. Code 109:4-3-09(A)(2) by accepting money from consumers for home improvement services and permitting eight weeks to elapse without delivering the contracted services or making a full refund.

PLAINTIFF'S SECOND CAUSE OF ACTION:

VIOLATION OF THE HOME SOLICITATION SALES ACT

COUNT I

**FAILURE TO PROVIDE PROPER NOTICE OF
THREE DAY RIGHT OF RESCISSION**

21. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs one through eighteen (1-18) of this Complaint.

22. Defendants violated the Home Solicitation Sales Act, R.C. 1345.23 and 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. The act or practice described above has been previously determined by Ohio courts to violate the Consumer Sales Practices Act, R.C. 1345.01 et seq. Defendants committed said violations after such decisions were available for public inspection.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests this Court to:

1. ISSUE a permanent injunction enjoining Defendants, their agents, servants, representatives, salesmen, employees, successors, or assigns, and all persons acting in concert and participation with them from further violating the Consumer Sales Practices Act, R.C. 1345.01 et seq., the substantive rules of the Ohio Administrative Code, and the Home Solicitation Sales Act.
2. ISSUE a declaratory judgment declaring that each act or practice described in Plaintiff's Complaint violates the Consumer Sales Practices Act and the Home Solicitations Sales Act, as set forth herein.
3. ASSESS, FINE, AND IMPOSE upon Defendants, a civil penalty of Twenty Five Thousand Dollars (\$25,000.00) for each appropriate violation described herein, pursuant to R.C. 1345.07(D), for which Defendants shall be jointly and severally liable.
4. AWARD a monetary judgment against Defendants in an amount sufficient to reimburse all consumers found to have been damaged by the Defendants' unfair and deceptive acts and practices.
5. ISSUE an injunction prohibiting Defendants from engaging in business as a supplier in any consumer transaction in the State of Ohio until such time as they have satisfied all monetary obligations ordered by this Court, and any other Court in Ohio in connection with a consumer transaction.
6. GRANT the Ohio Attorney General his costs in bringing this action
7. GRANT such other relief as the Court deems to be just, equitable, and appropriate.
8. ORDER Defendants to jointly and severally pay all court costs.

Respectfully submitted,

MICHAEL DEWINE
Ohio Attorney General

/s/ Brittany M. Steele
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