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Court of Common Pleas

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By: REBECCA F. SCHLAG 0061897

Confirmation Nbr. 1448206

STATE OF OHIO, EX REL. MICHAEL DEWINE

CV 18 901172

vs.

ASHLEY NIHISER, ET AL. DBA ASHLEY
CONTRACTORS, LLC

Judge: KELLY ANN GALLAGHER

Pages Filed: 6

**IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO**

STATE OF OHIO, ex rel.)	CASE NO.
MICHAEL DEWINE)	
Ohio Attorney General)	JUDGE
Cleveland Regional Office)	
615 W. Superior Avenue, 11th Floor)	
Cleveland, Ohio 44113-1899)	
)	<u>COMPLAINT AND REQUEST FOR</u>
Plaintiff,)	<u>INJUNCTIVE AND DECLARATORY</u>
)	<u>RELIEF, CONSUMER RESTITUTION</u>
)	<u>AND CIVIL PENALTIES</u>
-vs-)	
)	
ASHLEY NIHISER, dba)	
ASHLEY CONTRACTORS, LLC)	
968 REMSEN ROAD)	
MEDINA, OH 44256)	
)	
And)	
)	
BRIAN STEPP, dba)	
ASHLEY CONTRACTORS, LLC)	
FED. REG. NO. 64309-060)	
FCI MORGANTOWN)	
P.O. BOX 1000)	
MORGANTOWN, WV 26507-1000)	
)	
Defendants)	

JURISDICTION AND VENUE

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 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 the Ohio Consumer Sales Practices Act, R.C. 1345.01 et seq.

2. The actions of Defendants Ashley Nihiser ("Nihiser") and Brian Stepp ("Stepp") hereinafter described, have occurred in Cuyahoga County and other counties in the State of Ohio

and are in violation of the Ohio Consumer Sales Practices Act ("CSPA"), R.C. 1345.01 et seq., and its Substantive Rules O.A.C. 109:4-3-01 et seq.

3. This Court has jurisdiction over the subject matter of this action pursuant to R.C. 1345.05 of the CSPA.

4. This Court has venue to hear this case pursuant to Ohio Civ. R. 3(B)(3), in that Defendants conducted activity giving rise to the claims for relief out of which this action arises within in Cuyahoga County.

DEFENDANTS

5. Plaintiff incorporates by reference, as if fully rewritten herein, the allegations set forth in paragraphs one through four (1-4) of this Complaint.

6. Ashley Contractors, LLC ("Ashley Contractors") was a domestic limited liability company registered with the Ohio Secretary of State, whose last known business address was 968 Remsen Road, Medina, Ohio 44256. Ashley Contractors, LLC dissolved April 4, 2017.

7. Defendant Nihiser is a natural person and Owner of Ashley Contractors, LLC whose last known address is 968 Remsen Road, Medina, Ohio 44256.

8. Defendant Stepp is a natural person and President of Ashley Contractors, LLC whose last known address is FCI Morgantown, P.O. Box 1000, Fed. Reg. No. 64309-060, Morgantown, WV 26507-1000.

9. At all times relevant to this action, Defendant Nihiser owned, directed, supervised, approved, controlled, formulated, authorized, ratified, caused, personally participated in, benefitted from and/or otherwise participated in the day to day activities and practices of Ashley Contractors.

10. At all times relevant to this action, Defendant Stepp owned, directed, supervised, approved, controlled, formulated, authorized, ratified, caused, personally participated in, benefitted from and/or otherwise participated in the day to day activities and practices of Ashley Contractors.

11. Defendants are “suppliers” as that term is defined in R.C. 1345.01(C) as Defendants were, at all times relevant herein, engaged in the business of effecting “consumer transactions” by providing services to individuals for purposes which were primarily personal, family or household within the meaning specified in R.C. 1345.01(A) and (D).

STATEMENT OF FACTS

12. Plaintiff incorporates by reference, as if fully rewritten herein, the allegations set forth in paragraphs one through eleven (1-11) of this Complaint.

13. At all times relevant to this action, Defendants solicited consumers for home improvement services in Cuyahoga County and other counties within the State of Ohio.

14. Defendants accepted payment for home improvement services which they either failed to provide, performed in a shoddy manner, and/or failed to timely refund the payments made by those consumers.

15. In some instances, after receiving payment, Defendants would sometimes commence the home improvement project, but then fail to complete the contracted work or remit

a timely refund to the consumer.

16. In some instances, after receiving payment, Defendants would perform some work, but the quality of the work was substandard.

17. Defendants' failure to perform contracted home improvement services in a proper manner has resulted in harm to consumers and required these consumers to incur additional expenses to have Defendants' contracted work completed and/or corrected.

COUNT I
FAILURE TO DELIVER GOODS AND/OR SERVICES
OR ISSUE REFUNDS

18. Plaintiff incorporates by reference, as if fully rewritten herein, the allegations set forth in paragraphs one through seventeen (1-17) of this Complaint.

19. Defendants have committed unfair and deceptive acts or practices in violation of the CSPA, R.C. 1345.02 and O.A.C. 109:4-3-09, by selling home improvement services to consumers, receiving payments for these contracted services, and then failing to deliver the contracted services or to refund the monies paid.

COUNT II
PERFORMING SUBSTANDARD WORK

20. Plaintiff incorporates by reference, as if fully rewritten herein, the allegations set forth in paragraphs one through nineteen (1-19) of this Complaint.

21. Defendants committed unfair and deceptive acts and practices in violation of the CSPA, R.C. 1345.02(A), by performing substandard work and then failing to correct such work.

22. The acts and practices described above have been previously determined by Ohio

courts to violate the CSPA. Defendant committed said violations after such decisions were available for public inspection pursuant to R.C. 1345.05(A)(3).

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this Court:

- A. ISSUE A DECLARATORY JUDGMENT** declaring that each act or practice complained of herein violates the CSPA in the manner set forth in the Complaint.
- B. ISSUE A PERMANENT INJUNCTION** enjoining Defendants, under these or any other names, their agents, servants, representatives, salespersons, employees, successors and assigns and all persons acting in concert or participation with Defendants, directly or indirectly, from engaging in the acts or practices of which Plaintiff complains and from any further violations of the CSPA, R.C. 1345.01 et seq.;
- C. ORDER** that all contracts entered into between Defendants and Ohio consumers by unfair or deceptive acts or practices in violation of the CSPA be rescinded with full restitution to the consumers, or award other appropriate damages;
- D. IMPOSE** upon Defendants civil penalties in the amount of Twenty-Five Thousand Dollars (\$25,000.00) for each separate and appropriate violation of the CSPA pursuant to R.C. 1345.07(D);
- E. GRANT** Plaintiff his costs in bringing this action;
- F. ORDER** Defendants to pay all court costs;
- G. GRANT** such further relief as justice and equity require.

Respectfully submitted,

MICHAEL DeWINE
OHIO ATTORNEY GENERAL

/s/ Rebecca F. Schlag

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