

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

STATE OF OHIO ex rel.	)	
ATTORNEY GENERAL	)	
MICHAEL DEWINE	)	Case No:
30 E. Broad St., 14 <sup>th</sup> Floor	)	
Columbus, Ohio 43215	)	
	)	Judge:
Plaintiff,	)	
v.	)	
	)	
CAPITAL CITY PAVING, LLC	)	COMPLAINT AND REQUEST FOR
5960 Wilderness Drive	)	DECLARATORY JUDGMENT,
New Albany, OH 43054	)	INJUNCTIVE RELIEF, CIVIL
	)	PENALTIES, AND OTHER
and	)	APPROPRIATE RELIEF
	)	
MICHAEL WANKO, individually	)	
and dba CAPITAL CITY PAVING, LLC.	)	
and dba I PAVE ASPHALT	)	
8695 Olentangy River Rd.	)	
Delaware, OH 43015	)	
	)	
Defendant.	)	

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**JURISDICTION AND VENUE**

1. Plaintiff, State of Ohio, by and through its counsel, 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 R.C. 1345.01, et seq.
  
2. The actions of Capital City Paving, LLC and Michael Wanko individually and dba Capital City Paving, LLC and dba I Pave Asphalt ("Defendants"), hereinafter described, have occurred in Franklin County and other counties in the State of Ohio and, as set forth

below, are in violation of the Consumer Sales Practices Act (“CSPA”), R.C.1345.01 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)(2) and (3).

### **DEFENDANTS**

5. Defendant Michael Wanko is a natural person whose last known address is 8695 Olentangy River Rd., Delaware, OH 43015.
6. The principle place of business for Defendant Capital City Paving, LLC was 5960 Wilderness Dr., Columbus, Ohio 43054.
7. Defendant Capital City Paving, LLC is registered as a Limited Liability Company with the Ohio Secretary of State.
8. Defendants are “suppliers,” as that term is defined in R.C. 1345.01(C), as they engaged in the business of effecting “consumer transactions” by soliciting consumers either directly or indirectly for home remodeling and repair goods and services for a fee, within the meaning of R.C. 1345.01(A).

### **STATEMENT OF FACTS**

9. Defendant Wanko at all times pertinent hereto controlled and directed the business activities and sales conduct of Defendant Capital City Paving, LLC, causing, personally participating in, or ratifying the acts and practices of Defendant Capital City Paving, LLC, including the conduct giving rise to the violations described herein.
10. In at least one instance, Defendant Wanko engaged in a consumer transaction using the fictitious business name “I Phase Asphalt.”

11. Defendants accepted payment from consumers for the purchase of driveway paving materials and services.
12. Defendants provided shoddy and substandard services to consumers and then failed to correct such services.
13. Defendants accepted monetary deposits from consumers for resurfacing of driveways and failed to deliver those services within eight weeks.
14. Defendants have refused to refund consumers' deposits or payments despite consumers' requests for refund.

### **PLAINTIFF'S CAUSES OF ACTION**

#### **COUNT I- UNFAIR AND DECEPTIVE ACTS AND PRACTICES**

15. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs 1-14 of this Complaint.
16. Defendants committed unfair or deceptive acts and practices in violation of the CSPA, R.C. 1345.02(A), by performing shoddy and substandard work and then failing to correct such work.
17. The acts or practices described 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 II- FAILURE TO DELIVER**

18. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs 1-17 of this Complaint.
19. Defendants committed unfair or deceptive acts or practices in violation of the Failure to Deliver Rule, O.A.C. 109:4-3-09(A) and the CSPA, R.C. 1345.02(A), by accepting

money from consumers for goods or services and then permitting eight weeks to elapse without making shipment or delivery of the goods or services ordered, making a full refund, advising the consumer of the duration of an extended delay and offering to send a refund within two weeks if so requested, or furnishing similar goods or services of equal or greater value as a good faith substitute.

**PRAYER FOR RELIEF**

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

- A. ISSUE A DECLARATORY JUDGMENT that each act or practice complained of herein violates the CSPA and its Substantive Rules in the manner set forth in the Complaint.
- B. ISSUE A PERMANENT INJUNCTION enjoining the Defendants, their agents, servants, employees, successors or assigns, and all persons acting in concert and participation with them, directly or indirectly, through any corporate device, partnership, or other association, under these or any other names, from engaging in the acts and practices of which Plaintiff complains and from further violating the CSPA, R.C. 1345.01 et seq.
- C. ORDER Defendants, pursuant to R.C. 1345.07(B), to pay all actual damages, including non-economic damages, to all consumers injured by the conduct of the Defendants as set forth in this Complaint.
- D. ASSESS, FINE and IMPOSE upon Defendants a civil penalty of \$25,000.00 for each separate and appropriate violation of the CSPA described herein pursuant to R.C. 1345.07(D).
- E. ISSUE AN INJUNCTION prohibiting Defendants from engaging in any consumer transactions as a supplier in this state until such time as Defendants have satisfied all monetary obligations ordered pursuant to this litigation.

- F. GRANT Plaintiff its costs incurred in bringing this action.
- G. ORDER Defendants to pay all court costs associated with this matter.
- H. GRANT such other relief as the court deems to be just, equitable, and appropriate.

Respectfully submitted,

MICHAEL DEWINE  
Attorney General

/s/ Brandon C. Duck  
BRANDON C. DUCK (0076725)  
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Counsel for Plaintiff, State of Ohio  
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