

IN THE COURT OF COMMON PLEAS
MONTGOMERY COUNTY, OHIO

STATE OF OHIO ex rel.)	
ATTORNEY GENERAL)	
MICHAEL DEWINE)	Case No:
30 E. Broad St., 14 th Floor)	
Columbus, Ohio 43215)	
)	Judge:
Plaintiff,)	
v.)	
)	
CORY DEVOR)	<u>COMPLAINT AND REQUEST FOR</u>
DBA ABC CONSTRUCTION,)	<u>DECLARATORY JUDGMENT,</u>
6726 Farmington Rd)	<u>INJUNCTIVE RELIEF, CIVIL</u>
Miamisburg, Ohio 45342)	<u>PENALTIES, AND OTHER</u>
)	<u>APPROPRIATE RELIEF</u>
Defendant.)	

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 Cory Devor ("Defendant"), hereinafter described, have occurred in Montgomery 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.* 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)(1) and (3), in that Defendant resides in Montgomery County and Montgomery County is one of the counties in which Defendant conducted activity that gave rise to the claims for relief.

DEFENDANT

5. Defendant Cory Devor is a natural person residing at 6726 Farmington Rd, Miamisburg, Ohio 45342.
6. At all times relevant to this action, Defendant represented that he would provide home remodeling and repair goods and services under the business name ABC Construction.
7. Defendant is a “supplier,” as that term is defined in R.C. 1345.01(C), as he 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).
8. Defendant engaged in “home solicitation sales” as a seller as that term is defined in R.C. 1345.21, as he made personal solicitations of his sales at the residences of buyers, within the meaning of R.C. 1345.21(A).

STATEMENT OF FACTS

9. Defendant engaged in the business of soliciting and selling home improvement goods and services under the business name ABC Construction.
10. Upon information and belief, Defendant failed to register the business name “ABC Construction” with the Ohio Secretary of State.
11. Defendant solicited and sold home improvement goods and services at the residences of buyers.

12. Defendant does not have a retail business establishment or a fixed permanent location where the goods are exhibited or the services are offered for sale on a continuing basis.
13. Defendant engaged in the business of providing goods and services to consumers, including home repair, remodeling, and installation services, and failed to deliver some or all of those goods and services within eight weeks.
14. Defendant accepted monetary deposits from consumers for the purchase of home improvement goods and services and failed to deliver those goods and services and has refused to refund consumers' deposits or payments.
15. Defendant represented to consumers that he would provide the contracted for goods and services within an estimated time and then failed to provide such goods and services in the time promised.
16. On occasion, Defendant represented that his business, ABC Construction, was insured, when, in fact, Defendant did not have business insurance.
17. Defendant performed substandard, shoddy, and incomplete work when he provided home improvement services.
18. On occasion, after receiving payment, Defendant would begin to provide contracted for services, and then fail to complete the work.
19. Defendant's performance of contracted services in a substandard, shoddy, or incomplete manner has resulted in harm to consumers' property and required that consumers pay additional money to have the Defendant's work corrected and/or to complete the work Defendant was paid to do.

20. Defendant did not notify consumers of their cancellation rights nor did he provide consumers with a notice of cancellation.

PLAINTIFF'S FIRST CAUSE OF ACTION:

VIOLATIONS OF THE CSPA
COUNT I- FAILURE TO DELIVER

21. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs 1-20 of this Complaint.

22. Defendant 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 and services and then permitting eight weeks to elapse without making shipment or delivery of the goods and services ordered, making a full refund, advising the consumers 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.

COUNT II – UNFAIR AND DECEPTIVE ACTS AND PRACTICES

23. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs one through 1-22 of this Complaint.

24. Defendant committed unfair or 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.

25. Defendant committed unfair or deceptive acts and practices in violation of the CSPA, R.C. 1345.02(A) and 1345.02(B)(1), by representing that the subject of the consumer transaction has sponsorship, approval, performance characteristics, accessories, uses or benefits that it does not have.

26. Defendant committed unfair or deceptive acts and practices in violation of the CSPA, R.C. 1345.02(A) and 1345.02(B)(1), by representing that the supplier has a sponsorship, approval, or affiliation that the supplier does not have.
27. 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).

COUNT III – FAILURE TO REGISTER FICTITIOUS NAME

28. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs 1-27 of this Complaint.
29. Defendant committed unfair or deceptive acts and practices in violation of the CSPA, R.C. 1345.02(A), by failing to register with the Ohio Secretary of State his use of fictitious business names, as required by R.C. 1329.01.
30. The acts or practices described above 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 IV – UNCONSCIONABLE ACTS AND PRACTICES

31. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs 1-30 of this Complaint.
32. Defendant committed unconscionable acts and practices in violation of the CSPA, R.C. 1345.03(A), by misrepresenting that he possessed insurance in connection with his home improvement business to induce consumers to purchase his services and for which the consumers relied upon to their detriment.

33. The acts or practices described above 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).

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

COUNT 1 - FAILURE TO PROVIDE PROPER NOTICE OF THREE DAY
RIGHT OF RESCISSION

34. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs 1-33 of this Complaint.

35. Defendant violated the HSSA, R.C. 1345.23 and the CSPA, R.C. 1345.02(A), by failing to give proper notices to consumers of their right to cancel their transactions by a specific date and by failing to give consumers a cancellation form.

36. The act or practice described above has 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).

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, its Substantive Rules, and the HSSA, in the manner set forth in the Complaint.
- B. ISSUE A PERMANENT INJUNCTION enjoining the Defendant, his agents, servants, employees, successors or assigns, and all persons acting in concert and participation with him, 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.*, its Substantive Rules, and the HSSA, R.C. 1345.21 *et seq.*

- C. ORDER Defendant, pursuant to R.C. 1345.07(B), to pay actual damages, including non-economic damages, to all consumers injured by the conduct of the Defendant as set forth in this Complaint.
- D. ASSESS, FINE and IMPOSE upon Defendant a civil penalty of up to \$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 Defendant from engaging in business as a Supplier in any consumer transactions in this state until such time as Defendant has satisfied all monetary obligations ordered pursuant to this litigation.
- F. GRANT Plaintiff its costs incurred in bringing this action.
- G. ORDER Defendant 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
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