

IN THE COURT OF COMMON PLEAS
FRANKLIN COUNTY, OHIO

STATE OF OHIO, ex rel.)	
ATTORNEY GENERAL)	CASE NO.
MICHAEL DEWINE)	
30 East Broad St., 14 th Floor)	JUDGE
Columbus, Ohio 43215)	
)	
Plaintiff,)	
)	
v.)	
)	
EB RETAIL, LLC DBA)	<u>PLAINTIFF'S COMPLAINT</u>
ELEGANT BRIDE)	<u>FOR DECLARATORY JUDGMENT,</u>
c/o Frances Murphy)	<u>INJUNCTIVE RELIEF, RESTITUTION,</u>
Statutory Agent)	<u>AND CIVIL PENALTIES</u>
328 Mulberry Street)	
Coshocton, Ohio 43812)	
)	
And)	
)	
FRANCES MURPHY, INDIVIDUALLY)	
AND DBA ELEGANT BRIDE)	
328 Mulberry Street)	
Coshocton, Ohio 43812)	
)	
Defendants.)	
)	

JURISDICTION AND VENUE

1. Plaintiff, State of Ohio, by and through 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 the Consumer Sales Practices Act, R.C. 1345.01 *et seq.*
2. The actions of Defendants, hereinafter described, have occurred in the State of Ohio, in Franklin County, involve residents of the State of Ohio, and, as set forth below, are in violation of the Consumer Sales Practices Act, R.C. 1345.01 *et seq.*

3. Jurisdiction over the subject matter lies with this Court pursuant to R.C. 1345.04 and R.C. 2305.01.
4. This Court may exercise personal jurisdiction over the Defendants in this case pursuant to R.C. 2307.382 because the acts and omissions alleged in this complaint occurred in Ohio.
5. This Court has venue to hear this case pursuant to Ohio Civ. R. 3(B)(3), as Defendants conducted activity in Franklin County that gives rise to the claims for relief.

DEFENDANTS

6. Defendant Frances Murphy is a natural person whose last known address is 328 Mulberry Street, Coshocton, Ohio 43812.
7. Defendant Murphy registered the name EB Retail, LLC with the Secretary of State on December 9, 2015.
8. Defendant EB Retail, LLC failed to register any fictitious business names with the Secretary of State; however, on information and belief Plaintiff alleges Defendant EB Retail, LLC operated a retail store under the name Elegant Bride.
9. Defendant EB Retail, LLC dba Elegant Bride's principal place of business was located at 313 West Bridge Street, Dublin, Ohio 43017.
10. Defendant Murphy purchased the Elegant Bride retail store in 2016 and owned Elegant Bride at all times relevant to this action.
11. Prior to purchasing the Elegant Bride retail store, Defendant Murphy was an employee under Elegant Bride's previous ownership.
12. Defendant Murphy, as owner of Defendant EB Retail, LLC dba Elegant Bride, at all times pertinent to this action, controlled and directed the business activities and conduct of Defendant EB Retail, LLC dba Elegant Bride, causing, personally participating in, or

ratifying the acts and practices of Defendant EB Retail, LLC dba Elegant Bride that gave rise to the violations described herein.

13. Defendants are “suppliers” as that term is defined in R.C. 1345.01(C), since Defendants, at all relevant times hereto, were engaging in the business of effecting consumer transactions by soliciting and selling bridal gowns, accessories, and alteration services to consumers in Ohio for purposes that were primarily personal, family, or household, within the meaning specified in R.C. 1345.01(A).

STATEMENT OF FACTS

14. Defendants solicited and sold bridal gowns, accessories, and alteration services from the Elegant Bride retail store in Franklin County.
15. Defendants contracted with consumers to order bridal gowns and accessories from designers on the consumers’ behalf and to provide alterations.
16. Defendants required that consumers pay in full or make substantial down payments for bridal gowns, accessories, and alterations at the time of purchase.
17. Defendants misrepresented to consumers the amount of time it would take for goods to arrive and services to be rendered.
18. In many cases, once ordered from a designer, it would take several months, if not longer, for bridal gowns and accessories to arrive at the store.
19. The Elegant Bride retail store was abruptly closed on March 30, 2018.
20. Defendants did not provide consumers with any advance notice that the business was closing.
21. Following the closing of Elegant Bride, many consumers were unable to contact Defendants about the status of their orders.

22. Many consumers with approaching wedding dates were left without any information as to whether they would receive their bridal gowns in time for their weddings.
23. In some instances, Defendants told consumers that they had placed orders for bridal gowns and accessories with bridal gown designers when, in fact, they had not ordered the gowns and accessories.
24. Defendants accepted substantial down payments from consumers for the purchase of bridal gowns and related accessories, failed to deliver the goods for which consumers paid, and failed to refund the down payments.
25. In many instances, Defendants accepted payments from consumers, but failed to forward those payments to the manufacturer, which has resulted in many consumers having to pay for items twice.
26. Defendants failed to deliver to consumers the goods and services that were contracted and paid for.
27. Consumers requested refunds from Defendants for goods and services not provided and Defendants misrepresented the status of consumers' refunds.
28. Defendants failed to provide refunds to consumers.
29. Defendants provided consumers with inconsistent and inadequate information regarding goods ordered and delivery dates.
30. Defendants entered into consumer transactions and accepted money from consumers without disclosing to the consumer the substantial likelihood that Defendants' financial condition would limit or otherwise adversely affect the Defendants' ability to honor or service the contracts.

31. Defendants knowingly made misleading statements of opinion on which consumers relied to their detriment, including statements regarding goods ordered and delivery dates.

PLAINTIFF'S CAUSES OF ACTION:

Count I – Failure to Deliver

32. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs 1-31 of this Complaint.
33. Defendants committed unfair or deceptive acts or practices in violation of the Failure to Deliver Rule, Ohio Admin. Code 109:4-3-09(A) and the Consumer Sales Practices Act, R.C. 1345.02(A), by accepting substantial payments from consumers for bridal gowns, accessories, and alteration services, then failing to deliver the purchased goods or provide refunds.
34. The acts or practices described above have 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 pursuant to R.C. 1345.05(A)(3).

Count II – Unfair and Deceptive Consumer Sales Practices

35. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs 1-34 of this Complaint.
36. Defendants committed unfair or deceptive acts or practices in violation of the Consumer Sales Practices Act, R.C. 1345.02(A) by misrepresenting the status of consumers' orders and refunds.

37. Defendants committed unfair or deceptive acts or practices in violation of the Consumer Sales Practices Act, R.C. 1345.02(A), by providing consumers with inadequate and unfair customer service.
38. The acts or practices described above have 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 pursuant to R.C. 1345.05(A)(3).

Count III – Unconscionable Consumer Sales Practices

39. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs 1-38 of this Complaint.
40. Defendants committed unconscionable acts and practices in violation of the Consumer Sales Practices Act, R.C. 1345.03(A) as described in R.C. 1345.03(B)(3), by entering into consumer transactions and accepting money from consumers without disclosing to the consumers the substantial likelihood that Defendants' financial condition would limit or otherwise adversely affect the Defendants' ability to honor or service the contacts.
41. Defendants committed unconscionable acts and practices in violation of the Consumer Sales Practices Act, R.C. 1345.03(A) as described in R.C. 1345.03(B)(6), by knowingly making misleading statements of opinion on which the consumers relied upon to their detriment, including statements regarding goods ordered and delivery dates.
42. The acts or practices described above have 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 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 Consumer Sales Practices Act, R.C. 1345.01 *et seq.* and its Substantive Rules, Ohio Admin. Code 109:4-3-01 *et seq.* in the manner set forth in the Complaint;
- B. **ISSUE AN ORDER**, pursuant to R.C. 1345.07, permanently enjoining Defendants and their agents, partners, representatives, salespeople, employees, successors or assigns and all persons acting in concert and participation with them, directly or indirectly, through any corporate device, partnership or association from:
1. Engaging in business as a supplier in any consumer transaction in the State of Ohio until all sums due under all judgments are paid in full, whether those judgments are issued by this Court or any other court against Defendants in favor of consumers who were harmed as a result of the Defendants' Consumer Sales Practices Act violations; and
 2. Engaging in the acts or practices of which Plaintiff complains and from further violating the Consumer Sales Practices Act, R.C. 1345.01 *et seq.* and its Substantive Rules, Ohio Admin. Code 109:4-3-01 *et seq.*, including but not limited to, violating the specific statutes and rules alleged to have been violated herein;
- C. **ASSESS, FINE, AND IMPOSE** jointly and severally upon Defendants a civil penalty of Twenty Five Thousand Dollars (\$25,000) for each separate and appropriate Consumer Sales Practices Act violation described herein pursuant to R.C. 1345.07(D);
- D. **ORDER** Defendants jointly and severally, pursuant to R.C. 1345.07(B), to reimburse all consumers damaged by their unfair, deceptive, and unconscionable acts or practices,

including, but not limited to, making restitution to consumers who paid money to Defendants but never received the goods or services for which they paid;

- E. **ORDER** Defendants, their successors or assigns, under these or any other names, as a means of ensuring compliance with this Court's Order and with the consumer protection laws of Ohio, to maintain in their possession and control for a period of five years all business records relating to Defendants' solicitation or effectuation of business in Ohio and to permit the Ohio Attorney General or his representative, upon reasonable twenty-four hour notice, to inspect and/or copy any and all of said records, however, stored, and further **ORDER** that copies of such records be provided at Defendants' expense to the Ohio Attorney General upon request of the Ohio Attorney General or his representatives;
- F. **GRANT** the Plaintiff its costs 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
Ohio Attorney General

/s/ Teresa A. Heffernan

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