

IN THE COURT OF COMMON PLEAS
MORGAN COUNTY, OHIO

FILED
MORGAN COUNTY
CLERK OF COURTS

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STATE OF OHIO, ex rel.
ATTORNEY GENERAL
MICHAEL DEWINE
30 East Broad Street, 14th Floor
Columbus, Ohio 43215

Plaintiff,

v.

Logan-Madison Construction, LLC
3377 Cordray Road
Malta, Ohio 43758

and

Patrick Eltringham
3377 Cordray Road
Malta, Ohio 43758

Defendants

Case No:

Carmy Johnson
18CV0051

Judge:

D.W. FAVREAU

COMPLAINT, REQUEST FOR
DECLARATORY AND
INJUNCTIVE RELIEF,
CONSUMER DAMAGES, CIVIL
PENALTIES, AND OTHER
APPROPRIATE RELIEF

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 R.C. 1345.07 and R.C. 4722.07.
2. The actions of Defendants, Logan-Madison Construction, LLC and Patrick Eltringham, have occurred 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., the Home Solicitation Sales Act ("HSSA"), R.C. 1345.21 et seq, and the Home Construction Service Suppliers Act ("HCSSA"), R.C. 4722.01 et seq.

3. Jurisdiction over the subject matter lies with this Court pursuant to the CSPA, R.C. 1345.04 and the HCSSA, R.C. 4722.07.
4. This Court has venue to hear this case pursuant to Ohio Civ. R. 3(B)(3), as Defendants conducted activity in this county that gives rise to the claims for relief.

DEFENDANTS

5. Defendant Logan-Madison Construction LLC (“Logan-Madison”) is a limited liability company registered in Ohio with a principal place of business in Morgan County.
6. Defendant Patrick Eltringham (“Eltringham”) is an adult resident of the State of Ohio and Morgan County, who was and is an owner, employee, officer, or director of Logan-Madison Construction, LLC.
7. Upon information and belief, Defendant Eltringham directed, supervised, approved, formulated, authorized, ratified, benefited from, and/or otherwise participated in the acts and practices hereinafter alleged.
8. Defendants are “suppliers” as defined in R.C. 1345.01(C) because Defendants were, at all times relevant hereto, engaged in the business of effecting consumer transactions either directly or indirectly by soliciting and selling goods or services to consumers in the State of Ohio for purposes that were primarily for personal, family or household use, within the meaning specified in R.C. 1345.01(A).
9. Defendants are “sellers” engaging in “home solicitation sales,” as those terms are defined in the HSSA, R.C. 1345.21(A) and (C), because Defendants engaged in personal solicitations at the residences of consumers, including solicitations in response to or following invitations by consumers.

10. Defendants are “home construction service suppliers” engaged in “home construction services” as those terms are defined in the HCSSA, R.C. 4722.01(B) and (D) because Defendants contracted with an owner to construct a residential building for compensation.

STATEMENT OF FACTS

11. Defendant Logan-Madison provides home improvement and repair services to consumers in Ohio and Morgan County.
12. Defendant Logan-Madison solicits consumers at the consumer’s residence, including in response to or following invitations from consumers.
13. Defendant Logan-Madison entered into contracts with consumers to provide home improvement and repair services.
14. Defendant Logan-Madison accepted down payments for home improvement and repair consumers.
15. The home improvement and repair contracts entered into with consumers did not contain the 3-day right-to-cancel notice required by the HSSA, R.C. 1345.21 et seq.
16. For some home improvement and repair consumers, Defendants did not provide any services, or provide refunds for services not delivered.
17. For some home improvement and repair consumers, Defendants provided some services but did not provide the full services, or complete the work contracted for.
18. For some home improvement and repair consumers, Defendants provided shoddy or unworkmanlike services.
19. In addition to providing home improvement and repair services, Defendants sometimes contracted with consumers to construct entirely new residential buildings, including

cottages and live-in pole barns. The price of the buildings often ranged from approximately \$25,000 to approximately \$50,000.

20. Defendants accepted down payments from owners for their home construction services.

21. Defendants entered into contracts with the owners for its home building services. These contracts often did not contain certain information, including: Defendant Logan Madison's address, Defendant Logan Madison's taxpayer identification number, the owner's address and telephone number, the address or location of the property where the home construction service was to be performed, the anticipated start and completion dates of the home construction services, a copy of Defendant Logan-Madison's certificate showing general liability coverage in an amount of not less than \$250,000, and dated signatures of the Defendants and owners.

22. For some home construction services, Defendants failed to deliver the work contracted for, and failed to provide a full refund within a reasonable time period.

23. For some home construction services, Defendants did not perform the work in a workmanlike manner.

24. The Attorney General's Office has received consumer and owner complaints regarding Defendants and their practices. To date, the Attorney General has received 10 complaints against Defendants, for an aggregated disputed amount of approximately \$108,000.

PLAINTIFF'S FIRST CAUSE OF ACTION: VIOLATIONS OF THE CSPA

COUNT I- FAILURE TO DELIVER

25. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs 1-24 of this Complaint.

26. 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 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 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.
27. The acts or practices described above 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 - SHODDY AND SUBSTANDARD WORK

28. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs 1-27 of this Complaint.
29. 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.
30. The acts or practices described above have been previously determined by Ohio courts to violate the CSPA, R.C. 1345.02. Defendants 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: VIOLATIONS OF THE HSSA

COUNT I – FAILURE TO PROVIDE PROPER NOTICE OF THREE DAY RIGHT OF RECISSION.

31. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs 1-30 of this Complaint.

32. Defendants violated the HSSA, R.C. 1345.23 and R.C. 1345.02(A), by failing to give the proper notice to consumers of their right to cancel their contract by a specific date.
33. Such acts or practices 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 THIRD CAUSE OF ACTION: VIOLATIONS OF THE HCSSA

COUNT I – FAILURE TO DELIVER

34. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs 1-33 of this Complaint.
35. Defendants violated the HCSSA, R.C. 4722.03(A)(3)(f), by entering into home construction services contracts with owners, failing to deliver services in accordance with the terms and conditions of the contract, and failing to provide a full refund within a reasonable time period.

COUNT II – PERFORMING SERVICES IN AN UNWORKMANLIKE MANNER

36. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs 1-35 of this Complaint.
37. Defendants violated the HCSSA, R.C. 4722.03(A)(3)(d), by entering into home construction services contracts with owners, and failing to perform the services in a workmanlike manner.

COUNT III – NOT PROVIDING SERVICE CONTRACTS WITH REQUIRED INFORMATION

38. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs 1-37 of this Complaint.

39. Defendants violated the HCSSA, R.C. 4722.02, by entering into home construction services contracts with owners, and not including required information in the contracts, including: a) Defendant Logan Madison's address and Defendant Logan Madison's taxpayer identification number, b) the owner's address and telephone number, c) the address or location of the property where the home construction service was to be performed, d) the anticipated start and completion dates of the home construction services, e) a copy of Defendants' certificate of service showing general liability coverage in an amount of not less than \$250,000, and f) dated signatures of the Defendants and owners.

PRAYER FOR RELIEF

Wherefore, Plaintiff respectfully requests that this Court:

1. **ISSUE A DECLARATORY JUDGMENT**, pursuant to R.C. 1345.07(A)(1), and R.C. 4722.07(A)(1), declaring that each act or practice described above violates the CSPA, R.C. 1345.01 et seq., and the HCSSA, R.C. 4722.01 et seq., in the manner set forth therein.
2. **ISSUE A PERMANENT INJUNCTION**, pursuant to R.C. 1345.07(A)(2), enjoining Defendants Logan-Madison Construction, LLC and Patrick Eltringham, their agents, servants, representatives, salespeople, employees, successors or assigns and all persons acting in concert or participating with them, directly or indirectly, from engaging in the acts or practices of which Plaintiff complains, from further violation of the CSPA, R.C. 1345.01 et seq., and the HCSSA, R.C. 4722.01 et seq., and from engaging in further consumer transactions and home construction services until all consumer and owner restitution awarded under this action has been paid.

3. **ORDER** Defendants Logan-Madison Construction, LLC and Patrick Eltringham pursuant to R.C. 1345.07(B) and R.C. 4722.07(A)(3) to reimburse all consumers damaged by their unfair and deceptive acts or practices, including non-economic damages.
4. **ASSESS, FINE, AND IMPOSE** upon Defendants Logan-Madison Construction, LLC and Patrick Eltringham., a civil penalty of Twenty Five Thousand Dollars (\$25,000) for each appropriate violation described herein pursuant to R.C. 1345.07(D) and R.C. 4722.07(D).
5. **ORDER**, as a means of insuring compliance with this Court's Order and with the consumer protection laws of Ohio, that Defendants Logan-Madison Construction, LLC and Patrick Eltringham, maintain in their possession and control for a period of five (5) years all business records relating Logan-Madison Construction, LLC, and to permit the Ohio Attorney General, or his representative, upon reasonable twenty-four (24) hour notice to inspect and/or copy any and all such records.
6. **GRANT** the Ohio Attorney General its costs in bringing this action.
7. **ORDER** Defendants Logan-Madison Construction, LLC and Patrick Eltringham to pay all court costs.
8. **GRANT** such other relief as the Court deems to be just, equitable, and appropriate.

Respectfully submitted,

MICHAEL DEWINE
Ohio Attorney General


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