

FILED
LUCAS COUNTY

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COMMON PLEAS COURT
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IN THE COURT OF COMMON PLEAS OF LUCAS COUNTY, OHIO

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

Plaintiff,

v.

P & E INDUSTRIES, LLC
d/b/a National Memorial Stone Company
3419 Winston Blvd
Toledo, Ohio 43614

and

RICHARD DAILY
9077 Newport Creek Road
Newport, Michigan 48166

Defendants.

CASE N° G-4801-CI-0201704597-000

Judge

STACY L. COOK

JUDGE

COMPLAINT FOR
DECLARATORY JUDGMENT,
INJUNCTIVE RELIEF,
CONSUMER RESTITUTION,
AND CIVIL PENALTY

JURISDICTION AND VENUE

1. Michael DeWine, Attorney General of Ohio, 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.

2. The actions of Defendants, hereinafter described, have occurred in Lucas County and other counties in Ohio, as set forth below, are in violation of the 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. The Court has jurisdiction over the subject matter of this action pursuant to R.C. 1345.04.
4. Venue is proper pursuant to Ohio Civ. R. 3(B)(2)-(3) in that Defendants have their principle place of business in and some of the transactions complained of herein and out of which this action arose, occurred in Lucas County, Ohio.

THE DEFENDANTS

5. Defendant P & E Industries, LLC is a domestic limited liability company incorporated in the State of Ohio under Entity Number 2332046. Defendant P & E Industries, LLC does business as National Memorial Stone Company (hereinafter “National Memorial Stone”).
6. Defendant Richard Daily (“Daily”) is a natural person whose last known personal residence is 9077 Newport Creek Road, Newport, Michigan 48166.
7. At all times relevant to this action, Defendant Daily was the owner and operator of Defendant National Memorial Stone.
8. Defendants, as described below, are “suppliers” as that term is defined in R.C. 1345.01(C), as the Defendants were, at all times relevant herein, engaged in the business of effecting consumer transactions by soliciting and selling headstones, gravesite markers, and stone installation services to individuals in Ohio, including Lucas County, for purposes that were primarily personal, family or household within the meaning specified in R.C. 1345.01(A) and (D).

9. Defendant Daily, by virtue of his position as owner of Defendant National Memorial Stone, alone or in conjunction with others, caused, participated in, controlled, directed, ratified, and/or ordered the violations of law alleged in this Complaint.

STATEMENT OF FACTS

10. Defendants have been at all times relevant to this action engaged in the business of selling consumer goods or services, specifically headstones, gravesite markers, and stone installation services in the State of Ohio, including in Lucas County.
11. Defendants performed services for consumers in a shoddy or unworkmanlike manner and failed to correct the work. Such shoddy work included delivering headstones or gravesite markers with incorrect names, misspelled names, and incorrect dates; installing headstones facing the wrong direction; and installing headstones with incorrect granite.
12. Defendants caused extensive delays in the delivery of headstones and extensive delays in pouring foundations for headstones and gravesite markers that consumers purchased.
13. Defendants failed to deliver additional gravesite items that were purchased by consumers, such as vases and military plates or military markers.
14. Some consumers never received the headstones or gravesite markers purchased from Defendants.
15. In at least one instance, Defendants repossessed the headstone of a 10-year old child. This headstone has never been returned, despite full payment.
16. Defendants have failed to respond to consumers and failed to issue refunds.

PLAINTIFF'S CAUSES OF ACTION

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

17. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs one through sixteen (1 – 16) of this Complaint.
18. Defendants committed unfair or deceptive acts or practices in violation of the CSPA, R.C. 1345.02(A) and O.A.C. 109:4-3-09 by accepting money from consumers for headstones, gravesite markers, and stone installation and permitting eight weeks to elapse without delivering the promised goods or services or issuing a full refund.

COUNT II
SHODDY OR UNWORKMANLIKE SERVICES

19. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs one through sixteen (1 – 16) of this Complaint.
20. Defendants committed unfair or deceptive acts or practices in violation of the CSPA, R.C. 1345.02(A) by providing goods and services in an incomplete, shoddy, or unworkmanlike manner and failing to correct the work.
21. Such acts or practices 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).

PRAYER FOR RELIEF

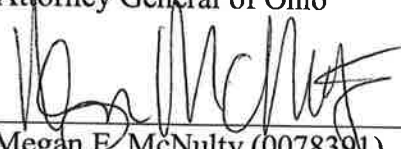
WHEREFORE, Plaintiff respectfully prays that this Court:

1. **ISSUE** a declaratory judgment declaring that each act or practice complained of herein violates the CSPA and its Substantive Rules in the manner set forth in the Complaint.

2. ISSUE a permanent injunction enjoining Richard Daily and P & E Industries, LLC, doing business as National Memorial Stone Company or any other name, as presently organized or in any future organized entity, registered or non, serving substantially similar purposes, and their agents, servants, representatives, salespeople, employees, independent contractors, successors, or assigns, and all persons acting in concert or participating with them, directly or indirectly, from further violating the CSPA, R.C. 1345.01 *et seq.* and its Substantive Rules.
3. GRANT a monetary judgment, jointly and severally, against Defendants in an amount sufficient to reimburse all consumers found to have been damaged by the Defendants' unfair and deceptive acts and practices.
4. ASSESS, FINE and IMPOSE upon the Defendants, jointly and severally, a civil penalty in the amount of Twenty-Five Thousand Dollars (\$25,000.00) for each separate and appropriate violation described herein pursuant to R.C. 1345.07(D).
5. GRANT the Ohio Attorney General his costs in bringing this action.
6. ORDER Defendants to pay all court costs.
7. GRANT such other relief as the Court deems to be just, equitable and appropriate.

Respectfully submitted,

MICHAEL DEWINE
Attorney General of Ohio



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