

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

STATE OF OHIO, ex rel.)
ATTORNEY GENERAL)
MICHAEL DEWINE)
30 EAST BROAD STREET, 14TH FLOOR)
COLUMBUS, OHIO 43215)

PLAINTIFF,)

V.)

COST SAVER HOME IMPROVEMENTS,)
LLC)
3885 LEEMAR DRIVE)
HILLIARD, OH 43026)

and

EVERETT GAGNON)
3885 LEEMAR DRIVE)
HILLIARD, OH 43026)

DEFENDANTS.)

CASE NO.

JUDGE

**COMPLAINT FOR
DECLARATORY JUDGMENT,
INJUNCTIVE RELIEF,
RESTITUTION, AND CIVIL
PENALTIES**

JURISDICTION

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. 1345.01 et seq. (“CSPA”).
2. The actions of Defendants, hereinafter described, have occurred in the State of Ohio, including in Franklin County, and as set forth below, are in violation of the CSPA and its Substantive Rules, O.A.C. 109-4-3-01 et seq. and the Home Solicitation Sales Act, R.C. 1345.21 et seq. (“HSSA”).

3. Defendants, as described below, are “suppliers” as that term is defined in R.C. 1345.01(C) as Defendants were, at all times relevant herein, engaged in the business of effecting consumer transactions by soliciting and selling home improvement services to individuals in the State of Ohio, including in Franklin County, for purposes that were primarily personal, family or household within the meaning specified in R.C. 1345.01(A) and (D).
4. Jurisdiction over the subject matter of this action lies with this Court pursuant to R.C. 1345.04 of the Consumer Sales Practices Act.
5. This Court has venue to hear this case pursuant to Ohio Civ. R. 3(B)(3), in that some of the transactions complained of herein, and out of which this action arose, occurred in Franklin County, Ohio.

STATEMENT OF FACTS

6. Defendant Cost Saver Home Improvements, LLC (“Cost Saver”) is an Ohio corporation with its corporate offices located, at all times relevant, at 3885 Leemar Drive, Hilliard, Ohio 43026.
7. Defendant Everett Gagnon (“Gagnon”) is an Ohio resident with his residential address located, at all times relevant, at 3885 Leemar Drive, Hilliard, Ohio 43026.
8. Defendant Gagnon possessed the authority to set policies and procedures for Defendant Cost Saver, dominated, controlled, and directed the business activities and sales conduct of Defendant Cost Saver, and committed, allowed, caused, directed, participated in, and/or ratified the unlawful acts and practices committed by Defendant Cost Saver.

9. Defendants are, and have been at all times relevant to this action, engaged in the business of soliciting, offering for sale, or selling home improvement goods and services in the State of Ohio, including in Franklin County and other counties.
10. Defendants entered into agreements to provide home improvement goods and services to consumers, including, but not limited to, window installation on residential units.
11. Defendants accepted money from consumers for goods and services and failed to provide said goods and services and failed to make a refund within eight (8) weeks.
12. Defendants overcharged consumers for goods and services purchased by altering payment charge amounts on the consumers' credit cards.
13. Defendants routinely engaged in sales presentations and solicited business in consumers' residences, as opposed to at a fixed permanent place of business.
14. Defendants failed to provide consumers with a written Notice of Cancellation with which consumers could exercise their cancellation right. [See Exhibit A].

PLAINTIFF'S FIRST CAUSE OF ACTION
VIOLATIONS OF THE CONSUMER SALES PRACTICES ACT
COUNT ONE
UNFAIR AND DECEPTIVE ACTS AND PRACTICES
FAILURE TO DELIVER GOODS

21. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs One through Fourteen (1-14) of this Complaint.
22. Defendants committed unfair and deceptive acts or practices in connection with consumer transactions in violation of R.C. 1345.02(A) and O.A.C. 109:4-3-09(A)(1) by accepting money from a consumer for goods or services and then permitting eight weeks to elapse without providing the goods and services or providing a refund.

COUNT TWO

UNCONSCIONABLE ACTS AND PRACTICES

23. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs One through Fourteen (1-14) of this Complaint.
24. Defendants committed unconscionable acts or practices in connection with consumer transactions in violation of R.C. 1345.03(A) by overcharging consumers for goods and services purchased by altering payment charge amounts on the consumers' credit cards.
25. Such acts and practices have been previously determined by Ohio courts to violate the CSPA, and 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
VIOLATION OF THE HOME SOLICITATION SALES ACT

COUNT ONE

FAILURE TO PROVIDE PROPER NOTICE OF THREE DAY RIGHT OF
RESCISSION

26. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs One through Fourteen (1-14) of this Complaint.
27. Defendants have committed unfair and deceptive acts or practices in violation of the Consumer Sales Practices Act, R.C. 1345.02(A) and R.C. 1345.23(B) by failing to provide consumers with a written form of the Notice of Cancellation with which consumers could exercise their cancellation right.
28. Such acts or practices 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 prays that this Court:

1. ISSUE PERMANENT INJUNCTIVE RELIEF enjoining Defendants, jointly and individually, from engaging in any consumer transactions in the State of Ohio, and from the sale or transfer of any business or personal assets, other than by an order of this Court, until such time as all judgments arising out of consumer transactions, including any judgment resulting from this action, are satisfied.
2. ISSUE PERMANENT INJUNCTIVE RELIEF enjoining Defendants, jointly and individually, their agents, servants, representatives, salespeople, employees, successors and 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 and from further violating the Consumer Sales Practices Act, R.C. 1345.01 et seq. and its Substantive Rules.
3. ISSUE A DECLARATORY JUDGMENT declaring that each act or practice described in Plaintiff's Complaint violates the Consumer Sales Practices Act in the manner set forth in this Complaint.
4. ORDER Defendants jointly and severally liable, pursuant to R.C. 1345.07(B), for reimbursement to all consumers found to have been damaged by the Defendants' unfair, deceptive and unconscionable acts and practices, including non-economic damages.
5. ASSESS, FINE AND IMPOSE upon Defendants, jointly and severally, a civil penalty of Twenty Five Thousand Dollars (\$25,000.00) for each separate and appropriate violation described herein, pursuant to R.C. 1345.07(D).

6. ORDER, as a means of insuring compliance with this Court's Order and with the consumer protection laws of Ohio, Defendants to maintain in their possession and control for a period of five (5) years all business records relating to Defendants' solicitation and sale of home improvement goods and services in Ohio 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 records.
7. GRANT the Ohio Attorney General his costs in bringing this action.
8. ORDER Defendants to pay all court costs
9. GRANT such other relief as the Court deems to be just, equitable and appropriate.

Respectfully submitted,

MICHAEL DeWINE
Attorney General

Melissa S. Szozda /s/

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