

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

STATE OF OHIO ex rel.  
ATTORNEY GENERAL  
DAVE YOST  
30 E. Broad St., 14<sup>th</sup> Floor  
Columbus, Ohio 43215

Plaintiff,

v.

RALPH EVANS  
DBA EJS TREE SERVICE  
564 E. Cassilly St.  
Springfield, Ohio 45503

Defendant.

Case No: 20 CV 19

Judge:

**FILED**  
COMMON PLEAS COURT  
HIGHLAND COUNTY, OHIO

**JAN 23 2020**

*D. J. Hodson*  
HIGHLAND COUNTY CLERK OF COURTS

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

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**JURISDICTION AND VENUE**

1. Plaintiff, State of Ohio, by and through its counsel, the Attorney General of Ohio, Dave Yost, 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 Ralph Evans DBA EJS Tree Service ("Defendant"), hereinafter described, have occurred in Highland 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(C)(3) and (6), in that Defendant conducted activity that gave rise to the claims for relief in Highland County and Highland County is the county in which all or part of the claims for relief arose.

#### **DEFENDANT**

5. Defendant Ralph Evans is a natural person residing at 564 E. Cassilly St., Springfield, Ohio 45503.
6. Defendant operated under the name EJS Tree Service, a fictitious business name not registered with the Ohio Secretary of State.
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 tree trimming services for a fee, within the meaning of R.C. 1345.01(A).

#### **STATEMENT OF FACTS**

8. Defendant engaged in the business of providing services to consumers, including tree trimming services, and failed to deliver some of those services within eight weeks.
9. Defendant has refused to refund consumers' deposits or payments despite consumers' requests for refunds.
10. After receiving payment, Defendant sometimes began work but failed to complete the work.
11. Defendant represented to consumers that he would provide the ordered services **within an** estimated time and then failed to provide the services in the time promised.

12. Defendant provided shoddy and substandard services to consumers and then failed to correct such work.
13. Defendant failed to register the fictitious name EJS Tree Service with the Ohio Secretary of State.
14. At the time of the transactions, Defendant failed to notify consumers of their rights to cancel the transactions, and failed to provide consumers with notices of cancellation forms describing the consumers' rights to cancel the transactions.

**PLAINTIFF'S FIRST CAUSE OF ACTION:**

**VIOLATIONS OF THE CSPA**

**COUNT I- FAILURE TO DELIVER**

15. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs 1-14 of this Complaint.
16. 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 services and then permitting eight weeks to elapse without delivering 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 services of equal or greater value as a good faith substitute.

**COUNT II- SHODDY AND SUBSTANDARD WORK**

17. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs 1-16 of this Complaint.

18. Defendant 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.
19. 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 III-FAILURE TO REGISTER FICTITIOUS NAMES**

20. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs 1-19 of this Complaint.
21. 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 a fictitious business name, as required by R.C. 1329.01.
22. 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**

**FAILURE TO PROVIDE PROPER NOTICE OF THREE-DAY RIGHT OF RESCISSION**

23. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs 1-22 of this Complaint.
24. 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 rights to cancel their transactions by a specific date.

25. 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).

### **PRAYER FOR RELIEF**

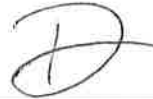
WHEREFORE, Plaintiff respectfully requests that this Court grant the following relief:

- 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, 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 all actual 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. GRANT Plaintiff its costs incurred in bringing this action, including, but not limited to, the costs of collecting on any judgment awarded.
- F. ORDER Defendant to pay all court costs associated with this matter.
- G. GRANT such other relief as the court deems to be just, equitable, and appropriate.

Respectfully submitted,

DAVE YOST  
Attorney General



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