

IN THE COURT OF COMMON PLEAS OF BUTLER COUNTY, OHIO

STATE OF OHIO ex rel.)	CASE NO.
Ohio Attorney General Dave Yost)	
411 Vine Street, 17 th Floor)	
Cincinnati, Ohio 45202)	JUDGE
)	
Plaintiff,)	
)	
v.)	<u>COMPLAINT FOR DECLARATORY</u>
)	<u>JUDGMENT, INJUNCTIVE RELIEF,</u>
KIMBERLY MACKAY)	<u>CONSUMER RESTITUTION, AND</u>
d/b/a Little Moments to Love Photography)	<u>CIVIL PENALTY</u>
5285 College Corner Pike)	
Oxford, Ohio 45056)	
)	
Defendant.)	
)	

JURISDICTION AND VENUE

1. Dave Yost, Ohio Attorney General, 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 Defendant, hereinafter described, have occurred in Butler County, Ohio and, 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. Defendant, as described below, is a "supplier" as that term is defined in R.C. 1345.01(C), as the Defendant was, at all times relevant herein, engaged in the business of effecting consumer transactions by soliciting and selling photography services to individuals in Ohio, including Butler County, for purposes that were primarily personal, family or household within the meaning specified in R.C. 1345.01(A) and (D).

4. This Court has jurisdiction over the subject matter of this action pursuant to R.C. 1345.04.
5. Venue is proper pursuant to Ohio Civ. R. 3(C)(1) and (3) in that Butler County is where the Defendant resides and where the Defendant conducted activity that gave rise to the claim for relief.

THE DEFENDANT

6. Defendant Kimberly Mackay is a natural person whose last known personal residence was 5285 College Corner Pike, Oxford, Ohio 45056.
7. Defendant engaged in consumer transactions using the unregistered trade name Little Moments to Love Photography.

STATEMENT OF FACTS

8. Defendant has been at all times relevant to this action engaged in the business of selling consumer goods or services, specifically photography services, in the State of Ohio, including in Butler County.
9. Defendant failed to register the business name Little Moments to Love Photography with the Ohio Secretary of State.
10. Consumers contracted with Defendant to provide photography services and the subsequent delivery of photographs.
11. Defendant failed to attend photography sessions after consumers prepaid for the sessions.
12. When Defendant did attend photography sessions, she failed to provide the photographs that consumers had purchased.
13. Defendant refused to refund consumers' deposits or payments despite consumers' requests for refunds.

PLAINTIFF'S CAUSE OF ACTION

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

14. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs one through thirteen (1-13) of this Complaint.
15. Defendant 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 photography services and products and permitting eight weeks to elapse without delivering the promised goods or services or issuing a full refund.

COUNT II
FAILURE TO REGISTER WITH THE
OHIO SECRETARY OF STATE

16. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs one through fifteen (1-15) of this Complaint.
17. Defendant committed unfair or deceptive acts or practices in violation of R.C. 1345.02(A) and R.C. 1329.01 by failing to register with or report the trade name Little Moments to Love Photography to the Ohio Secretary of State.
18. Such acts and practices have been previously determined by Ohio courts to violate the CSPA. 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 prays that this Court:

1. ISSUE a declaratory judgment declaring that each act or practice complained of herein violates the CSPA in the manner set forth in the Complaint.
2. ISSUE a permanent injunction enjoining Kimberly Mackay, doing business as Little Moment to Love Photography or any other name, and her agents, representatives, salespeople,

employees, independent contractors, successors, or assigns, and all persons acting in concert or participating with her, directly or indirectly, from further violating the CSPA, R.C. 1345.01 et seq., and its Substantive Rules.

3. GRANT a monetary judgment against Defendant in an amount sufficient to reimburse all consumers found to have been damaged by the Defendant's unfair or deceptive acts and practices.
4. ASSESS, FINE, and IMPOSE upon the Defendant 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 Plaintiff its costs in bringing this action, including, but not limited to, the costs of collecting on any judgment awarded.
6. ORDER Defendant to pay all court costs.
7. GRANT such other relief as the Court deems to be just, equitable and appropriate.

Respectfully submitted,

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Ohio Attorney General

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