

IN THE EUCLID MUNICIPAL COURT  
CUYAHOGA COUNTY, OHIO

STATE OF OHIO, ex rel.  
DAVE YOST  
ATTORNEY GENERAL OF OHIO  
615 W. Superior Ave. 11<sup>th</sup> Floor  
Cleveland, Ohio 44113

Plaintiff,

v.

NEIL WOLF  
221 South Main Street  
Hudson, Ohio 44236

and

NEIL CONSTRUCTION  
COMPANY INC.  
221 South Main Street  
Hudson, Ohio 44236

Defendants.

) CASE NO. 21 CIV 00009 3:00

) JUDGE

) INTERVENOR-PLAINTIFF'S  
) COMPLAINT FOR DECLARATORY  
) JUDGEMENT, INJUNCTIVE RELIEF,  
) RESTITUTION, CIVIL PENALTIES,  
) AND OTHER APPROPRIATE RELIEF

JURISDICTION AND VENUE

1. Intervenor-Plaintiff, State of Ohio, by and through the Attorney General of Ohio, Dave Yost, files this complaint pursuant to Civ.R. 24 and his authority under R.C. 1345.09(E) to intervene, such right of intervention having been previously granted by order of this court dated April 29, 2021. Intervenor-Plaintiff 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 the Ohio Consumer Sales Practices Act, R.C. 1345.01 et seq.

2. The actions of Defendants, hereinafter described, have occurred in the City of Euclid, Cuyahoga County, as well as other counties around the State of Ohio, and are in violation of the Ohio Consumer Sales Practices Act ("CSPA"), R.C. 1345.01 et seq., its Substantive Rules O.A.C. 109:4-3-01 et seq. and the Home Solicitation Sales Act ("HSSA"), R.C. 1345.21 et seq.
3. This Court has jurisdiction over the subject matter of this action 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) in that the transaction complained of herein, and out of which this action arose, occurred within the City of Euclid, Cuyahoga County, Ohio.

#### **DEFENDANTS**

5. Defendant Neil Wolfe is a natural person residing at 221 South Main Street, Hudson, OH 44236.
6. Defendant Neil Construction Company, Inc. is a company which purports to sell home improvement goods and services. The company is comprised of one person, Defendant Neil Wolfe. The location of Defendant Neil Construction Company, Inc. is 221 South Main Street, Hudson, OH 44236.
7. At all times relevant to this action, Defendant Neil Wolfe directed, supervised, approved, controlled, formulated, authorized, ratified, caused, personally participated in, benefitted from and/or otherwise participated in the day to day activities and practices of Neil Construction Company, Inc.
8. Defendants 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 providing services to individuals for purposes which were primarily personal, family or household within the meaning specified in R.C. 1345.01(A) and (D).

9. Defendants are “sellers” engaging in “home solicitation sales” of “consumer goods or services” as those terms are defined in the HSSA, R.C. 1345.21(A), (C) and (E), because Defendants engaged in personal solicitations at the residences of consumers, including solicitations in response to or following invitations by consumers.

### **STATEMENT OF FACTS**

10. Defendants Neil Wolfe and Neil Construction Company, Inc. provide home improvement and repair services to consumers in Ohio, including in the City of Euclid, Cuyahoga County.
11. Defendants solicit consumers at the consumers’ residences, including in response to or following invitations from consumers.
12. Defendants entered into a contract with Plaintiffs to provide home improvement and repair services.
13. Defendants accepted deposits from the Plaintiffs for home improvement and repair services.
14. At the time Defendants accepted deposits from Plaintiffs, Defendants were not registered in the City of Euclid to perform the work for which Defendants were contracted to perform.
15. At the time Defendants accepted deposits from Plaintiffs, Defendants had not obtained any of the necessary permits from the City of Euclid to perform the work for which Defendants were contracted to perform.
16. After a lengthy delay, Defendants provided some but not all of the services promised to Plaintiffs, and did not complete the work contracted for in a reasonable time.

17. Defendants provided some services to Plaintiffs but those services were shoddy and unworkmanlike services.
18. Defendants failed to properly register in the City of Euclid and obtain all necessary permits prior to performing work.
19. Despite failing to complete the agreed upon work in a timely and workmanlike manner, and without properly registering or obtaining permit(s) as required by the City of Euclid, Defendants caused a mechanic's lien to be placed on the consumers' residence.
20. Defendants caused a mechanic's lien to be placed on the consumer's residence through false statements appearing on the "Affidavit for Mechanic's Lien" signed and sworn to by Defendant Neil Wolf.
21. Defendants failed to respond to Plaintiffs' telephone calls despite repeated attempts by Plaintiffs.
22. Defendants failed to perform their home improvement and repair duties in a timely manner.
23. Defendants have maintained a pattern of inefficiency, incompetence and/or continuous tactics to stall and evade their legal obligations to Ohio consumers.
24. Defendants' failure to perform contracted home improvement services in a proper manner has resulted in harm to Plaintiffs, as well as other consumers throughout the State of Ohio.
25. The Attorney General's Office has received numerous consumer complaints regarding Defendants' practices throughout the State of Ohio.
26. Defendants have engaged in a pattern and practice of failing to fulfill their legal obligations to Ohio consumers, including the obligation to properly register as a contractor in all jurisdictions requiring such registration, and the obligation to obtain all required permits prior to commencing work in all jurisdictions in which Defendants conduct business.

**INTERVENOR-PLAINTIFF'S FIRST CAUSE OF ACTION:**  
**VIOLATIONS OF THE CSPA**

**CSPA COUNT I**  
**FAILURE TO DELIVER**

27. Intervenor-Plaintiff incorporates by reference, as if fully rewritten herein, the allegations set forth in paragraphs one through twenty six (1-26) of this Complaint.
28. Defendants have 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 or 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 requested, or furnishing similar goods or services of equal or greater value as a good faith substitute.

**CSPA COUNT II**  
**SHODDY AND SUBSTANDARD WORK**

29. Intervenor-Plaintiff incorporates by reference, as if fully rewritten herein, the allegations set forth in paragraphs one through twenty eight (1-28) of this Complaint.
30. 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.
31. 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).

**CSPA COUNT III**  
**FAILURE TO REGISTER AS A CONTRACTOR**

32. Intervenor-Plaintiff incorporates by reference, as if fully rewritten herein, the allegations set forth in paragraphs one through thirty one (1-31) of this Complaint.
33. Defendants accepted deposits from consumers and began work at consumer residences without registering as contractor in the applicable jurisdiction, in violation of the CSPA, R.C. 1345.02(A).
34. The acts and 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).

**CSPA COUNT IV**  
**FAILURE TO OBTAIN REQUIRED PERMITS**

35. Intervenor-Plaintiff incorporates by reference, as if fully rewritten herein, the allegations set forth in paragraphs one through thirty four (1-34) of this Complaint.
36. Defendants failed to obtain all necessary permits required by the local ordinances of the City of Euclid, prior to accepting deposits or performing any home improvement work, in violation of the CSPA, R.C. 1345.02(G).
37. The acts and 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).

**CSPA COUNT V**  
**CONTRACTS INCLUDE UNFAIR, ONE-SIDED, AND EXCESSIVE**  
**LIQUIDATED DAMAGES CLAUSES**

38. Intervenor-Plaintiff incorporates by reference, as if fully rewritten herein, the allegations set forth in paragraphs one through thirty seven (1-37) of this Complaint.

39. Defendants contracted with Ohio consumers, and the contracts contained unfair, one-sided, and excessive liquidated damages clauses in the event of a breach of contract, contrary to and in violation of R.C. 1345.02(A).
40. The acts and 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).

**CSPA COUNT VI**  
**ABANDONING THE WORKSITE AFTER PARTIAL PERFORMANCE**

41. Intervenor-Plaintiff incorporates by reference, as if fully rewritten herein, the allegations set forth in paragraphs one through forty (1-40) of this Complaint.
42. Defendants accepted payment from Plaintiffs and began work at Plaintiffs' residence, but abandoned the work sites and refused/failed to complete performance of the contracted work in violation of the CSPA, R.C. 1345.02(A).
43. The acts and 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).

**CSPA COUNT VII**  
**PATTERN AND PRACTICE OF CONTINUALLY STALLING**  
**AND EVADING LEGAL OBLIGATIONS**

44. Intervenor-Plaintiff incorporates by reference, as if fully rewritten herein, the allegations set forth in paragraphs one through forty three (1-43) of this Complaint.
45. Defendants have maintained a pattern of inefficiency and incompetence in performing the home improvement services contracted for, continually stalling and evading their legal obligations to consumers, in violation of the CSPA, R.C. 1345.02(A).
46. The acts and 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).

**CSPA COUNT VIII**  
**MAKING FALSE STATEMENTS UNDER OATH ON AN AFFIDAVIT FOR**  
**MECHANIC'S LIEN**

47. Intervenor-Plaintiff incorporates by reference, as if fully rewritten herein, the allegations set forth in paragraphs one through forty six (1-46) of this Complaint.
48. Defendants caused Mechanics' Liens to be placed on consumers' property. Such liens were obtained through false statements made under oath that, among other statements, Defendants were justly and truly due the sums stated in such liens.
49. The acts and 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).

**PLAINTIFF'S SECOND CAUSE OF ACTION:**  
**VIOLATIONS OF THE HSSA**  
**FAILURE TO GIVE 3-DAY NOTICE OF CANCELLATION**

50. Intervenor-Plaintiff incorporates by reference, as if fully rewritten herein, the allegations set forth in paragraphs one through forty nine (1-49) of this Complaint.
51. Defendants engaged in home solicitation sales pursuant to the HSSA, R.C. 1345.21 et seq., in that Defendants procured the sale of consumer goods or services at the residences of consumers.
52. Defendants violated the HSSA, R.C. 1345.23(B), by failing to include appropriate cancellation language in the contracts entered into with consumers, or giving consumers a separate, appropriately worded "notice of cancellation" required by R.C. 1345.23(B)(2) or otherwise informing consumers of how and when to give notice of cancellation as required

by R.C. 1345.23(B)(3).

53. These actions constitute deceptive acts and/or practices in violation of the HSSA and the Direct Solicitations Rule, O.A.C. 109:4-3-11(A)(5), and the CSPA, R.C. 1345.02(A).
54. The acts and 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).

**INTERVENOR-PLAINTIFF'S THIRD CAUSE OF ACTION:  
PATTERN AND PRACTICE OF UNFAIR CONSUMER PRACTICES**

55. Intervenor-Plaintiff incorporates by reference, as if fully rewritten herein, the allegations set forth in paragraphs one through fifty four (1-54) of this Complaint.
56. Defendants have engaged in a pattern and practice of violating State of Ohio consumer protection laws, including the CSPA and the HSSA, and have been parties to a number of lawsuits based upon consumer transactions, not the least of which are judgments rendered in matters brought by the State of Ohio Attorney General's Office. Still, Defendants persist in violating Ohio's consumer protection laws.
57. Specifically, Defendants' long history of engaging in similar unfair and deceptive acts and practices as outlined herein, both in litigation with the Ohio Attorney General's Office and in private consumer litigation includes court cases spanning nearly thirty years and includes, but is not limited to; *Wolfe v. Cooper*, 8<sup>th</sup> Dist. Cuyahoga No. 62372, 1993 Ohio App. LEXIS 2661 (May 27, 1993) PIF # 1656; *State ex rel. Petro v. Wolfe, et al.*, Lake County C.P. No. 03 CV 000027 (May 14, 2004) PIF #2258; *Brown v. Wolfe, et al.*, Summit C.P. No. CV-2016-01-0025 (Dec. 28, 2016) PIF# 3249; *Parker, et al. v. Neil Const. Co., Inc., et al.*, Summit C. P. No. CV-2016-06-2778 (Feb. 3, 2017); *State ex rel. DeWine v. Wolfe, et al.*, Summit C.P. CV-2017-11-4755.

58. Defendants' disregard for consumer protection laws amounts to a pattern and practice of unfair or deceptive acts against consumers in the State of Ohio, by Defendants engaging in a pattern of inefficiency or incompetence, continual stalling and evading their legal obligations to consumers, and engaging in a pattern of inadequate and unfair customer service and untimeliness in connection with consumer transactions; contrary to and in violation of holdings published in the Public Inspection File, including but not limited, to *Cowell v. Davis and Laird*, Case No. 03 CV 00872 (Licking C.P. 01/30/2004) PIF # 2224; *Cruz v. Girgis*, Case No. CV-09-704269 (Cuyahoga C.P. 09/21/2010) PIF # 2954; *DeWine v. Bee Improvements, LLC, et. al*, (Franklin C.P. 10/11/2013) PIF #3111.
59. The acts and practices described above and involved in the prior lawsuits 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**, Intervenor-Plaintiff respectfully requests that this Court:

- A. ISSUE A DECLARATORY JUDGMENT** declaring that each act or practice complained of herein violates the CSPA, R.C. 1345.01 et seq., and the HSSA, R.C. 1345.21 et seq., in the manner set forth in the Complaint;
- B. ISSUE A PERMANENT INJUNCTION** enjoining Defendants, under these or any other names, their agents, representatives, salesmen, employees, successors and assigns and all persons acting in concert or participation with Defendants, directly or indirectly, from engaging in the acts or practices of which Intervenor-Plaintiff complains and from any further violations of the CSPA, R.C. 1345.01 et seq., and

the HSSA, R.C. 1345.21 et seq.

- C. **ISSUE A PERMANENT INJUNCTION** enjoining Defendants, under these or any other names, their agents, representatives, salesmen, employees, successors and assigns and all persons acting in concert or participation with Defendants, directly or indirectly, from engaging in business as a supplier in the State of Ohio with respect to services related to home improvements, home remodeling, or any similar venture;
- D. **IMPOSE** upon Defendants civil penalties for each separate and appropriate violation described herein pursuant to R.C. 1345.07(D) and 4722.07(D);
- E. **DECLARE** the Mechanic's Lien filed by Defendants against Plaintiffs' property void, and order Defendants to remove the lien from Plaintiffs' property;
- F. **ORDER** Defendants to reimburse all consumers found to have been damaged by Defendants' unlawful actions in violation of the CSPA;
- G. **ORDER** Defendants to reimburse all consumers found to have been damaged by the Defendants' unlawful actions in violation of the HCSSA;
- H. **ORDER** that all contracts entered into between Defendants and Ohio consumers by unfair or deceptive acts or practices in violation of the CSPA be rescinded with full restitution to the consumers;
- I. **GRANT** Intervenor-Plaintiff his costs in bringing this action including, but not limited to, the costs of collecting any judgment awarded;
- J. **ORDER** Defendants to pay all court costs; and
- K. **GRANT** such further relief as the Court deems to be just, equitable and appropriate.

Respectfully submitted,

**DAVE YOST**  
OHIO ATTORNEY GENERAL

A handwritten signature in black ink, appearing to read "Michael R. Sliwinski", written over a horizontal line.

MICHAEL R. SLIWINSKI (0076728)  
Managing Attorney, Cleveland Regional Office  
REBECCA SCHLAG (0061897)  
Senior Assistant Attorney General  
Consumer Protection Section  
Cleveland Regional Office  
615 W. Superior Ave., 11<sup>th</sup> fl.  
Cleveland, OH 44113-1899  
(216) 787-3030  
counsel for Intervenor-Plaintiff State of Ohio  
[Michael.Sliwinski@OhioAGO.gov](mailto:Michael.Sliwinski@OhioAGO.gov)