

IN THE COURT OF COMMON PLEAS
ALLEN COUNTY, OHIO

FILED
COMMON PLEAS COURT
2021 MAY 24 PM 4:16

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

Plaintiff,

v.

ROBERT EBERLE III
d/b/a T&R RENOVATIONS
211 E. Mechanic Street
Wapakoneta, OH 45895

Defendant.

Case No:

C V 2021 0157

Judge:

KOHLRIESER

MARGIE MURPHY MILLER
CLERK OF COURTS
ALLEN COUNTY, OHIO

COMPLAINT AND REQUEST

FOR DECLARATORY

JUDGMENT, INJUNCTIVE RELIEF,

CIVIL PENALTIES, AND

OTHER APPROPRIATE RELIEF

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 hereinafter described of Defendant, Robert Eberle III ("Defendant"), doing business as T&R Renovations or otherwise, have occurred in Allen County and other counties in the State of Ohio and, as set forth herein, are in violation of the 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. 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).

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DEFENDANT

5. Defendant is a natural person with a last known address at 211 E. Mechanic St., Wapakoneta, OH 45895.
6. Defendant, at all times relevant hereto, operated a home improvement construction business under the name "T&R Renovations" and Defendant personally operated, controlled, and directed the activities of said business.
7. Defendant is a "supplier," as that term is defined in R.C. 1345.01(C), as he engaged in the business of effecting and soliciting "consumer transactions" by soliciting individual consumers in the State of Ohio to enter into transactions for home improvement goods and services for purposes that were primarily personal, family or household within the meaning specified in R.C. 1345.01(A).
8. Defendant, at all times relevant hereto, engaged in "home solicitation sales", as defined in R.C. 1345.21(A), as he made personal solicitations of sales at the residences of buyers within the meaning of R.C. 1345.21(A).

STATEMENT OF FACTS

9. Defendant, at all times relevant hereto, solicited and sold home improvement goods and services at the residences of individual consumers.
10. In the sale of home improvement goods and services to consumers, Defendant failed to properly notify consumers of their rights to cancel their transactions and failed to provide consumers with notice of cancellation forms describing the consumers' rights to cancel the transactions within three business days.

11. Defendant did not have a physical business location where his goods were exhibited or where his services were offered for sale on a continuing basis.
12. Defendant accepted monetary deposits and/or payments from consumers for home improvement goods and services, but in some instances failed to provide the services when represented, including the allowance of more than eight weeks to elapse without providing the 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.
13. Despite consumers' demands to do so, Defendant has not refunded consumer deposits and/or payments for the home improvement goods and services that Defendant failed to provide.
14. Defendant in some instances provided or attempted home improvement goods and services for consumers, but did so in an incomplete, shoddy, substandard, or unworkmanlike manner and then failed to correct such work.

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 through 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 goods and services and then permitting more than eight weeks to elapse without providing the goods and 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 goods or 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 through 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 incomplete, shoddy, substandard, or unworkmanlike 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).

**SECOND CAUSE OF ACTION: VIOLATION OF THE HSSA
FAILURE TO PROVIDE PROPER
NOTICE OF CANCELLATION RIGHT**

20. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs 1 through 19 of this Complaint.
21. Defendant violated the HSSA, R.C. 1345.23 and R.C. 1345.02(A), by failing to give proper notice to consumers of their right to cancel their transactions and by failing to provide consumers with notice of cancellation forms describing the consumers' rights to cancel the transactions within three business days.
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).

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, O.A.C. 109:4-3-01 *et seq.*, and the HSSA in the manner set forth in the Complaint.
- B. ISSUE A PERMANENT INJUNCTION enjoining Defendant, doing business under his own name, the name T&R Renovations, or any other names, together with his officers, partners, agents, representatives, salespersons, employees, successors or assigns, and all persons acting in concert and participation with him directly or indirectly through any corporate device, partnership or association, from engaging in the acts and practices of which Plaintiff complains and from further violating the CSPA, its Substantive Rules, O.A.C. 109:4-3-01 *et seq.*, or the HSSA.
- C. ORDER Defendant, pursuant to R.C. 1345.07(B), to pay 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 cost of collecting on any judgment awarded.
- F. ORDER Defendant to pay all court costs associated with this matter.

- G. ORDER Defendant be enjoined from engaging in consumer transactions as a supplier in the State of Ohio until he has satisfied all monetary amounts ordered to be paid in this action.
- H. GRANT such other relief as this Court deems to be just, equitable, and appropriate.

Respectfully submitted,

DAVE YOST
Attorney General



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