FILED

2021 SEP 22 PM 1:05

AJ WILLIAMS
COMMON PLEAS COURT
GREENE COUNTY, OHIO

IN THE COURT OF COMMON PLEAS
GREENE COUNTY, OHIO

STATE OF OHIO ex rel. OHIO ATTORNEY GENERAL DAVE YOST 30 East Broad Street, 14th Floor Columbus, Ohio 43215 Plaintiff, v. DESIREE GILLIAM PACE, Individually And dba FLOWERS BY DES 1140 Hedges Rd. Xenia, Ohio 45385 Defendant.	)	CASE NO. 2021 CV 0446 JUDGE JUDGE BUCKWALTER **COMPLAINT FOR DECLARATORY JUDGMENT, INJUNCTIVE RELIEF, CONSUMER RESTITUTION, AND CIVIL PENALTY**

JURISDICTION AND VENUE

1. Plaintiff, State of Ohio, by and through counsel, 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 the Consumer Sales Practices Act, R.C. 1345.01 *et seq.*, and specifically R.C. 1345.07.
2. The actions of Defendant, hereinafter described, have occurred in Greene 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 flowers to individuals in Ohio, including Clinton 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)(2) and (3) in that Greene County is where the Defendant has her principal place of business and where the Defendant conducted activity that gave rise to the claim for relief.

THE DEFENDANT

6. Defendant Desiree Gilliam Pace is a natural person whose last known personal residence is 1140 Hedges Rd., Xenia Ohio 45385.
7. Defendant engaged in consumer transactions using the name Flowers by Des, a business name not registered with the Ohio Secretary of State.
8. Defendant's principal place of business was located at 99 Lowell Rd., Xenia, Ohio 45385.

STATEMENT OF FACTS

9. Defendant has been at all times relevant to this action engaged in the business of selling consumer goods or services, specifically floral services, in the State of Ohio, including in Greene County.
10. Consumers contracted with Defendant to provide floral services for weddings and other events.
11. The floral services that the Defendant provided included, but were not limited to, flowers for weddings, wedding parties and decorations at other event venues.
12. Defendant required that consumers make substantial down payments of 50% or more for the floral services at the time of entering into the contract.
13. Defendant required that the remaining balance due pursuant to the contract be paid in full by the date of the wedding or other event.

14. For some consumers, Defendant confirmed services in advance of the event date and failed to provide the flowers on the day of the consumers' weddings or other events.

15. For some consumers, Defendant contacted the consumers and cancelled the floral services just days before the consumers' weddings or other events.

16. For some consumers, Defendant never contacted the consumers and failed to provide the flowers on the day of the consumers' weddings or other events.

17. Defendant failed to deliver to consumers the goods and services that were contracted and paid for.

18. Consumers requested refunds from Defendant for goods or services not provided and Defendant misrepresented the status of the consumers' refunds.

19. Defendant failed to refund consumers' deposits or payments despite consumers' requests for refunds.

PLAINTIFF'S CAUSE OF ACTION: VIOLATIONS OF THE CONSUMER SALES PRACTICES ACT

COUNT 1

FAILURE TO DELIVER GOODS AND/OR SERVICES OR ISSUE REFUNDS

20. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs one through nineteen (1-19) of this Complaint.

21. 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 flowers and floral services and permitting eight weeks to elapse without delivering the promised goods or services or issuing a full refund.

22. The acts or practices described above 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).

COUNT 2

UNFAIR AND DECEPTIVE CONSUMER SALES PRACTICES

23. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs one through nineteen (1-19) of this Complaint.

24. Defendant committed unfair or deceptive acts or practices in violation of the Consumer Sales Practices Act, R.C. 1345.02(A) by misrepresenting the status of consumers' orders and refunds.

25. The acts or practices described above 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 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 Desiree Gilliam Pace, doing business as Flowers by Des, 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,

DAVE YOST
Ohio Attorney General

/s/ Rosemary E. Rupert

Rosemary E. Rupert (0042389)
Principal Assistant Attorney General
30 East Broad Street, 14th Floor
Columbus, OH 43215
Phone: (614)752-5548
Fax: 866-473-6249
rosemary.rupert@OhioAGO.gov
Counsel for Plaintiff, State of Ohio