

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

STATE OF OHIO ex rel.)	
ATTORNEY GENERAL)	
DAVE YOST)	Case No:
30 E. Broad St., 14 th Floor)	
Columbus, Ohio 43215)	
)	Judge:
Plaintiff,)	
v.)	
)	
TIMOTHY D. FANNON)	<u>COMPLAINT AND REQUEST FOR</u>
DBA RITEWAY PLUMBING)	<u>DECLARATORY JUDGMENT,</u>
1021 Braxton Blvd.)	<u>INJUNCTIVE RELIEF, CONSUMER</u>
London, Ohio 43140)	<u>RESTITUTION, CIVIL PENALTIES</u>
)	<u>AND OTHER APPROPRIATE RELIEF</u>
Defendant.)	

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 Timothy D. Fannon dba Riteway Plumbing (“Defendant”), hereinafter described, have occurred in Franklin 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 giving rise to the claims for relief in Franklin County and all or part of the claims for relief arose in Franklin County.

DEFENDANT

5. Defendant Timothy D. Fannon is a natural person residing at 1021 Braxton Blvd., London, Ohio 43140.
6. Defendant operates under the fictitious trade name Riteway Plumbing - a name he first registered with the Ohio Secretary of State on May 14, 2012, and renewed on May 10, 2017.
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 home remodeling and plumbing goods and services for a fee, within the meaning of R.C. 1345.01(A).
8. Defendant engaged in “home solicitation sales” as a “seller” as that term is defined in R.C. 1345.21, as he made personal solicitations of his sales at the residences of buyers, within the meaning of R.C. 1345.21(A).

STATEMENT OF FACTS

9. Defendant engaged in the business of providing home remodeling and plumbing goods and services to consumers, and failed to deliver some of those goods and services within eight weeks.

10. Defendant has refused to refund consumers' deposits or payments despite consumers' requests for refunds.
11. After receiving payment, Defendant sometimes began work, but then failed to complete the work.
12. Defendant provided shoddy and substandard home repair services to consumers and then failed to correct such services.
13. Defendant represented to consumers that he would provide the ordered goods and services within an estimated time and then failed to provide such goods and services in the time promised.
14. In January 2020, Franklin County Common Pleas Court entered a Judgment against Defendant for violations of the CSPA, including a declaratory judgment, injunctive relief, consumer damages, and a civil penalty payable to the Attorney General's Office. (State of Ohio ex rel., Attorney General of Ohio Dave Yost v. Timothy D. Fannon dba Riteway Plumbing, Franklin Co. 19 CV 5137.)
15. Since the entry of that Judgment, Defendant has engaged in consumer transactions while failing to pay a judgment that resulted from actions arising out of consumer transactions.
16. At the time of the transactions, Defendant failed to provide consumers with notice of their right to cancel their transactions within three business days.

PLAINTIFF'S FIRST CAUSE OF ACTION: VIOLATIONS OF THE CSPA

COUNT I- FAILURE TO DELIVER

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 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 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

19. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs 1-18 of this Complaint.

20. 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.

21. 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 – ENGAGING IN CONSUMER TRANSACTIONS AFTER FAILING TO PAY A JUDGMENT

22. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraph 1-21 of this Complaint.

23. Defendant committed unfair or deceptive acts and practices in violation of the CSPA, R.C. 1345.02(A), by engaging in consumer transactions while having an unsatisfied judgment against the Defendant arising from consumer transactions.

24. 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 NOTICE OF RIGHT TO CANCEL

25. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs 1-24 of this Complaint.
26. Defendant violated the HSSA, R.C. 1345.23 and the CSPA, R.C. 1345.02(A), by failing to provide consumers with notice of their right to cancel their transactions within three business days.
27. The act or practice described above has 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, R.C. 1345.01 *et seq.*, its Substantive Rules OAC 109:4-3-01 *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 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 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. ISSUE AN INJUNCTION prohibiting Defendant from engaging in business as a Supplier in any consumer transactions in this state until such time as Defendant has satisfied all monetary obligations ordered pursuant to this litigation, the prior judgment against Defendant in State of Ohio ex rel., Attorney General of Ohio Dave Yost v. Timothy D. Fannon dba Riteway Plumbing, Franklin Co. 19 CV 5137, and any other judgments.
- F. GRANT Plaintiff its costs incurred in bringing this action.
- G. ORDER Defendant to pay all court costs associated with this matter.
- H. GRANT such other relief as the court deems to be just, equitable, and appropriate.

Respectfully submitted,

DAVE YOST
Attorney General

/s/ Brandon C. Duck
BRANDON C. DUCK (0076725)
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