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LICKING CO. OHIO

IN THE COURT OF COMMON PLEAS
LICKING COUNTY, OHIO

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OLIVIA C. PARKINSON
CLERK

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

CASE NO.

JUDGE 22CV01416

Plaintiff,

v.

RICK WALLACE
106 St. Patrick Drive
Somerset, OH 43783

and

HEATH FURNITURE AND
MATTRESS LLC
570 Hebron Rd.
Heath, Ohio 43056

Defendant)

COMPLAINT AND REQUEST FOR
DECLARATORY JUDGMENT,
INJUNCTIVE RELIEF, CONSUMER
RESTITUTION, AND CIVIL
PENALTIES

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 Rick Wallace and his company Heath Furniture and Mattress, LLC ("Defendants"), hereinafter described, have occurred in the State of Ohio, including in Licking County and, as set forth below, are in violation of the Consumer Sales Practices Act ("CSPA"), R.C. 1345.01 *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)(2) and (C)(3) in that Defendants have their principal place of business in Licking County and conducted activity that gave rise to the claim for relief in Licking County.

DEFENDANT BACKGROUND

5. Defendant Heath Furniture and Mattress, LLC (“Heath Furniture”) is a for-profit limited liability company registered with the Ohio Secretary of State and with a principal place of business in Heath, Ohio.
6. Defendant Rick Wallace (“Wallace”) is a natural person residing at 106 St. Patrick Drive, Somerset, OH 43783 and who was and is an owner, employee, officer or director of Defendant Heath Furniture.
7. Defendant Wallace, all times relevant to this action, directed, supervised, approved, formulated, authorized, ratified or otherwise participated in the acts and practices hereinafter alleged.
8. Defendants at all times relevant to this action were engaged in the business of soliciting, offering for sale, or selling furniture to consumers in the State of Ohio.
9. Defendants are “suppliers” as that term is defined in R.C. 1345.01(C) of the CSPA because Defendants have engaged in the business of effecting “consumer transactions” either directly or indirectly by soliciting and selling furniture to individuals in Ohio for purposes that were primarily for personal, family, or household use, within the meaning of R.C. 1345.01(A).

STATEMENT OF FACTS

10. Defendants engaged in the business of selling furniture via their store located at 570 Hebron Rd., Heath, OH 43056.
11. Defendants entered into contracts with consumers for the purchase of furniture.
12. Defendants required consumers to make deposits and/or payments in full prior to receiving the purchased furniture.
13. Defendants promised consumers that they would ship furniture to consumers in exchange for payment.
14. After accepting money from consumers for furniture, Defendants failed to deliver the goods that were purchased by consumers.
15. Some consumers who did not receive their furniture requested refunds from Defendants.
16. Defendants failed to provide requested refunds to consumers for whom he did not deliver the furniture.
17. When consumers contacted Defendants about the status of their orders, Defendants misrepresented that consumers would eventually receive the goods.
18. To date, many consumers have still not received their ordered furniture.
19. Defendant Heath Furniture is no longer in business.

CAUSE OF ACTION: VIOLATIONS OF THE CSPA

Count I – Failure to Deliver

20. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs 1–19 of this Complaint.
21. Defendants 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 then permitting eight weeks to elapse without making shipment or delivery of the goods ordered, making a full refund, advising the consumers of the duration of an extended delay and then offering to send a refund within two weeks if so requested, or furnishing similar goods of equal or greater value as a good faith substitute.

Count II – Unfair and Deceptive Consumer Sales Practices

22. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs 1–21 of this Complaint.
23. Defendants committed unfair or deceptive acts or practices in violation of the CSPA, R.C. 1345.02(A), by misrepresenting the status of consumers’ orders and refunds.
24. Defendants committed unfair or deceptive acts or practices in violation of the CSPA, R.C. 1345.02(A), by providing consumers with inadequate and unfair customer service.
25. The acts or 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).

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this Court grant the following relief:

- A. **ISSUE A DECLARATORY JUDGMENT** that each act or practice contained of herein violates the CSPA and its Substantive Rules in the manner set forth in the Complaint.
- B. **ISSUE A PERMANENT INJUNCTION**, pursuant to R.C. 1345.07(A)(2), enjoining Defendants, their agents, representatives, salespeople, employees, successors, or assigns, and all persons acting in concert or participating with him, directly or indirectly, from engaging in the acts or practices of which Plaintiff complains and from further violating

the CSPA, R.C. 1345.01 *et seq.*, or its Substantive Rules, O.A.C. 109:4-3-01 *et seq.*, including, but not limited to, violating the specific statutes and rules alleged to have been violated herein.

- C. **ORDER** Defendants, pursuant to R.C. 1345.07(B), to pay consumer restitution to all consumers injured by the conduct of Defendants.
- D. **ASSESS, FINE, AND IMPOSE** upon Defendants a civil penalty of up to \$25,000 for each separate and appropriate violation described herein pursuant to R.C. 1345.07(D).
- E. **ISSUE AN INJUNCTION** prohibiting Defendants from engaging in business as a Supplier in any consumer transaction in the State of Ohio until such time as they have satisfied all monetary obligations ordered pursuant to this litigation, and any other Court in Ohio in connection with a consumer transaction.
- F. **GRANT** Plaintiff its costs in bringing this action, including, but not limited to, the costs of collecting on any judgment awarded.
- G. **ORDER** Defendants 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
Ohio Attorney General



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