

ORIGINAL

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

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

Plaintiff,

v.

THOMAS EDWARD GRUBB
7617 E Grubb Rd. NE
Thornville, OH 43076

and

MIDWEST ROOF RENOVATION LLC
7617 E Grubb Rd. NE
Thornville, OH 43076

and

NEWFACE EXTERIORS LLC
7617 E Grubb Rd. NE
Thornville, OH 43076

Defendants.

Case No: **23 CV 148**

Judge: **JUDGE TRIMMER**

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

FILED
2023 MAR -8 AM 10:55
BRANDEN C. MEYER
CLERK OF COURTS
FAIRFIELD CO. OHIO

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 his police and regulatory powers and under the authority invested in him by the Consumer Sales Practices Act, ("CSPA") R.C. 1345.01 *et seq.*

2. The actions of Thomas Edward Grubb, Midwest Roof Renovation LLC, and NewFace Exteriors LLC (“Defendants”), hereinafter described, have occurred in Fairfield and other counties in the State of Ohio and, as set forth below, are in violation of the CSPA, R.C. 1345.01 *et seq.*, and 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), in that Fairfield County is one of the counties in which Defendants conducted activity that gave rise to the claims for relief.

DEFENDANT

5. Defendant Thomas Edward Grubb is an individual residing at 7617 E Grubb Rd. NE, Thornville, OH 43076.
6. Defendant Midwest Roof Renovation LLC is a limited liability company registered with the Ohio Secretary of State with a principal place of business at 7617 E Grubb Rd. NE, Thornville, OH 43076.
7. Defendant NewFace Exteriors LLC is a limited liability company registered with the Ohio Secretary of State with a principal place of business at 7617 E Grubb Rd. NE, Thornville, OH 43076.
8. Defendant Grubb, at all times relevant to this action, controlled and directed the business activities and sales conduct of Defendants Midwest Roof Renovation LLC and NewFace

Exteriors LLC, causing, personally participating in, or ratifying the acts and practices of the same, including the conduct giving rise to the violations described herein.

9. Defendants are “suppliers,” as they engaged in the business of effecting “consumer transactions” by soliciting consumers either directly or indirectly for home improvement goods and services to “consumers” for purposes that were primarily for personal, family or household use, as those terms are defined in R.C. 1345.01(A), (C) and (D).
10. Defendants engaged in “home solicitation sales” as “sellers,” as they made personal solicitations and sales of their goods and services at the residences of “buyers,” within the meaning of R.C. 1345.21(A), (C), and (D).

STATEMENT OF FACTS

11. Defendants offered and sold home improvement goods and services, including roofing and siding repairs, at the residences of buyers.
12. Defendants did not have a retail business establishment having a fixed permanent location where the goods were exhibited or the services were offered for sale on a continuing basis.
13. Defendants solicited and sold home improvement goods and services, including roofing and siding repairs, to consumers and failed to deliver some of those goods and services within eight weeks.
14. Defendants accepted monetary deposits from consumers for the purchase of home improvement goods and services, including roofing and siding repairs, and failed to deliver those goods and provide the services.
15. In some cases, after receiving payment, Defendants provided some materials to be used in the contracted work, but then failed to perform the work.

16. In some cases, after receiving payment, Defendants failed to provide any materials or perform any work.
17. Defendants did not provide consumers with refunds of deposits paid when Defendants did not perform the contracted work.
18. During their solicitation and sale of home improvement goods and services, including roofing and siding repairs, Defendants did not notify consumers of their cancellation rights nor did they provide consumers with a notice of cancellation form.
19. Defendants continued to solicit new consumer transactions without satisfying unpaid consumer judgments rendered against them in multiple counties in Ohio, including Fairfield and Franklin counties.
20. Defendant Thomas Edward Grubb filed for individual Chapter 7 bankruptcy on November 18, 2022, and the outcome of these proceedings is still pending.

PLAINTIFF'S FIRST CAUSE OF ACTION:

VIOLATIONS OF THE CSPA

COUNT I - FAILURE TO DELIVER

21. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in the preceding paragraphs of this Complaint.
22. 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 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 – SOLICITING NEW CONSUMER TRANSACTIONS AFTER FAILING TO
PAY JUDGMENTS ARISING FROM CONSUMER TRANSACTIONS**

**AS TO DEFENDANTS THOMAS EDWARD GRUBB AND MIDWEST ROOF
RENOVATION LLC ONLY**

23. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in the preceding paragraphs of this Complaint.
24. Defendants Thomas Edward Grubb and Midwest Roof Renovation LLC committed unfair or deceptive acts or practices in violation of the CSPA, R.C. 1345.02(A), by soliciting and engaging in new consumer transactions while having unsatisfied consumer protection judgments rendered against them.
25. 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:
VIOLATION OF THE HSSA**

**FAILURE TO PROVIDE PROPER NOTICE OF THREE-DAY RIGHT OF
RESCISSION**

26. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in the preceding paragraphs of this Complaint.
27. 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.

28. Defendants violated the CSPA, R.C. 1345.02(A), and 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).

29. 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 complained of herein violates the CSPA, R.C. 1345.01 *et seq.*, its Substantive Rules O.A.C. 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 Defendants, their agents, employees, successors or assigns, and all persons acting in concert and participation with them, 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, O.A.C. 109:4-3-01 *et seq.*, and the HSSA, R.C. 1345.21 *et seq.*
- C. **ORDER** Defendants, pursuant to R.C. 1345.07(B), to pay consumer restitution to all consumers injured by the Defendants’ conduct as set forth in this Complaint.

- D. **ASSESS, FINE and IMPOSE** upon Defendants a civil penalty of up to \$25,000 for each separate and appropriate violation of the CSPA described herein pursuant to R.C. 1345.07(D).
- E. **ISSUE AN INJUNCTION** prohibiting Defendants from engaging in business as Suppliers in any consumer transactions in this state until such time as Defendants have each satisfied all of their respective monetary obligations ordered pursuant to this litigation, as well as any prior judgments rendered against them in the State of Ohio arising from consumer transactions.
- F. **GRANT** the Plaintiff its costs incurred 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.
- H. **GRANT** such other relief as the court deems to be just, equitable, and appropriate.

Respectfully submitted,

DAVE YOST
Attorney General



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