

IN THE COURT OF COMMON PLEAS
DELAWARE COUNTY, OHIO

STATE OF OHIO, ex rel.
MICHAEL DEWINE
Attorney General of Ohio
30 East Broad Street
14th Floor
Columbus, Ohio 43215

Plaintiff,

vs.

ELIJAH DECKARD
DBA BUCKEYE PRO
6775 Wilmington Pike
Centerville, Ohio 45459

Defendant.

CASE NO. 14-CVH-12-0917

JUDGE

EVERETT H. KRUEGER

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

E-FILED

JAN ANTONOPLOS
CLERK

2014 DEC 18 AM 11:03

COMMON PLEAS COURT
DELAWARE COUNTY, OHIO
FILED

JURISDICTION

1. Plaintiff, State of Ohio, by and through the Attorney General of Ohio, Michael DeWine, having reasonable cause to believe that violations of Ohio's consumer 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. 1345.07.
2. The actions of Defendant Elijah Deckard, as described below, have occurred in Delaware County and several counties throughout Ohio, and as set forth below, 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.



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COMPLAINT

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 home improvement services to individuals in several counties throughout Ohio, including Delaware County, for purposes that were primarily personal, family or household within the meaning specified in R.C. 1345.01(A) and (D).
4. Defendant, as described below, engaged in “home solicitation sales” as that term is defined in R.C. 1345.21(A), as Defendant, at all times relevant herein, engaged in personal solicitations at the residences of consumers, including solicitations in response to or following invitations by consumers.
5. Jurisdiction over the subject matter of this action lies with this Court pursuant to R.C. 1345.04 of the CSPA.
6. This Court has venue to hear this case pursuant to Ohio Civ. R 3(B)(3) in that Delaware County is a location where the Defendant conducted activity that gave rise to the claim for relief.

THE DEFENDANT

7. Defendant Elijah Deckard is a natural person whose last known personal residence is 6775 Wilmington Pike, Dayton, Ohio 45459.
8. Defendant engaged in consumer transactions using the registered trade name, Buckeye Pro.

STATEMENT OF FACTS

9. Defendant has been at all times relevant to this action, engaged in the selling of consumer goods or services, specifically home improvement services, under the name of Buckeye Pro
10. Defendant solicited consumers at their residences for home improvement services ranging from flooring to roofing services.
11. Defendant advertised and represented in his flyers that he was a Better Business Bureau member despite never being a member.
12. Defendant advertised and represented in his flyers that he was bonded and insured.
13. In at least one instance, Defendant represented to a consumer that he was bonded, but he did not purchase a policy until several months after he entered into the consumer transaction.
14. In at least one instance, Defendant represented to a consumer that he was bonded, but his policy was cancelled prior to him entering into the consumer transaction.
15. In at least one instance, the consumer relied upon Defendant's representations of being bonded in making the decision to hire the Defendant to perform home improvement services.
16. At the time of the transactions, Defendant failed to provide consumers with proper notices of cancellation forms describing the consumers' rights to cancel the transactions.
17. Defendant accepted substantial payments from consumers, but failed to begin or complete the work for which he was paid.
18. In many instances, Defendant provided start dates to consumers, but then failed to show up to perform the work as promised.

19. Consumers contacted the Defendant to begin or complete the work and/or to obtain refunds but the Defendant failed to return the consumers' phone calls.
20. Defendant has continued to engage in consumer transactions despite having a previous judgment that arose from a consumer transaction against him.
21. All facts alleged above have occurred in the two years prior to this lawsuit.

PLAINTIFF'S FIRST CAUSE OF ACTION:

VIOLATION OF THE CONSUMER SALES PRACTICES ACT

COUNT I

FAILURE TO DELIVER GOODS AND/OR SERVICES OR ISSUE REFUNDS

22. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs one through twenty-one (1-21) of this Complaint.
23. Defendant committed unfair or deceptive acts or practices in violation of the CSPA, R.C. 1345.02 and the Failure to Deliver Rule, O.A.C. 109:4-3-09(A)(2), by accepting money from consumers for home improvement services and permitting eight weeks to elapse without delivering the promised services or issuing a full refund.

COUNT II

SHODDY OR UNWORKMANLIKE SERVICES

24. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs one through twenty-one (1-21) of this Complaint.
25. Defendant committed unfair or deceptive acts or practices in violation of the CSPA, R.C. 1345.02(A), by performing home improvement services in an incomplete, shoddy, or unworkmanlike manner.

26. Such acts or practices 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.

COUNT III

MISREPRESENTATIONS

27. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in Paragraphs one through twenty-one (1-21) of this Complaint.
28. Defendant committed unfair and deceptive acts and practices in violation of the CSPA, R.C. 1345.02(B)(1) by advertising and falsely representing to consumers that he was bonded and insured.
29. Defendant committed unfair and deceptive acts and practices in violation of the CSPA, R.C. 1345.02(B)(9) by advertising and falsely representing to consumers that he was a Better Business Bureau member.
30. 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.

COUNT IV

UNSATISFIED JUDGMENT

31. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs one through twenty-one (1-21) of this Complaint.

32. Defendant committed unfair or deceptive acts or practices in violation of the CSPA, R.C. 1345.02(A), by engaging in consumer transactions while having an unsatisfied judgment and legal obligation owed to a consumer arising out of a previous consumer transaction.
33. Such acts or practices 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.

PLAINTIFF'S SECOND CAUSE OF ACTION:
VIOLATION OF THE HOME SOLICITATION SALES ACT

COUNT I

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

34. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs one through twenty-one (1-21) of this Complaint.
35. Defendant violated the HSSA, R.C. 1345.23 and the CSPA, R.C. 1345.02(A), by failing to give a proper notice to consumers of their right to cancel their contract by a specific date.
36. 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.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests this Court to:

1. ISSUE a permanent injunction enjoining Defendant, his agents, servants, representatives, salesmen, employees, successors, or assigns, and all persons acting in concert and

participation with him, directly or indirectly, from further violating the CSPA, R.C. 1345.01 et seq., its Substantive Rules, and the HSSA.

2. ISSUE a declaratory judgment declaring that each act or practice described in Plaintiff's Complaint violates the CSPA and the HSSA, as set forth herein.
3. ASSESS, FINE, AND IMPOSE upon Defendant, a civil penalty of Twenty Five Thousand Dollars (\$25,000.00) for each appropriate violation described herein, pursuant to R.C. 1345.07(D).
4. AWARD a monetary judgment against Defendant in an amount sufficient to reimburse all consumers found to have been damaged by the Defendant's unfair and deceptive acts and practices.
5. ISSUE an injunction prohibiting Defendant from engaging in business as a supplier in any consumer transaction in the State of Ohio until such time as he has satisfied all monetary obligations ordered by this Court, and any other Court in Ohio in connection with a consumer transaction.
6. GRANT the Ohio Attorney General his costs in bringing this action
7. GRANT such other relief as the Court deems to be just, equitable, and appropriate.
8. ORDER Defendant to pay all court costs.

Respectfully submitted,

MICHAEL DEWINE
Ohio Attorney General

/s/ Brittany M. Steele
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