

IN THE COURT OF COMMON PLEAS
MUSKINGUM COUNTY, OHIO

FILED
COMMON PLEAS COURT
MUSKINGUM CO., OHIO

2016 AUG 26 AM 10:41

STATE OF OHIO ex rel.
OHIO ATTORNEY GENERAL
MICHAEL DEWINE
30 E. Broad Street, 14th Floor
Columbus, Ohio 43215

CASE NO.

JUDGE:

TODD A. BICKLE
CLERK

CH2016-0277

JUDGE COTTRILL

Plaintiff,

v,

GLORYVIEW WINDOWS
AND MORE, LLC
1257 Maple Avenue
Zanesville, Ohio 43701

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

and

DENNIS W. BENJAMIN, individually
1925 Newark Rd.
Zanesville, Ohio 43701

Defendants.

JURISDICTION AND VENUE

1. Plaintiff, State of Ohio, by and through Attorney General Michael DeWine, 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 Ohio Consumer Sales Practices Act, R.C. 1345.01 et seq.
2. The actions of Defendants Gloryview Windows and More, LLC and Dennis Wade Benjamin, hereinafter described, have occurred in Muskingum County 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., its Substantive Rules, 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 the CSPA, R.C. 1345.04.
4. This Court has venue to hear this case pursuant to Ohio Civ. R. 3(B)(1)-(3) in that Defendants reside in, have their principal place of business in, and some of the transactions complained of herein, and out of which this action arose occurred in Muskingum County, Ohio.

DEFENDANTS

5. Defendant Gloryview Windows and More, LLC ("Gloryview") is an Ohio Limited Liability Company with its principal place of business located at 1257 Maple Avenue, Zanesville, Ohio 43701.
6. Gloryview has been registered with the Ohio Secretary of State since August 2014.
7. Defendant Dennis Wade Benjamin ("Benjamin") is a natural person who resides at 1925 Newark Road, Zanesville, Ohio 43701.
8. At all times relevant herein, Benjamin presented himself as the owner and operator of Gloryview by personally meeting with consumers, signing contracts, handling monetary transactions, communicating with consumers, and controlling day-to-day operations.
9. On information and belief, Defendant Benjamin personally performed shoddy and substandard work on consumers' homes and failed to correct the work.
10. Defendants are "suppliers" as that term is defined in R.C. 1345.01(C), as Gloryview and Benjamin engaged in the business of effecting "consumer transactions" by soliciting

consumers either directly or indirectly for home remodeling and repair goods and services for a fee, within the meaning of R.C. 1345.01(A).

11. At all times relevant herein, Defendants engaged in "home solicitation sales" as that term is defined in the HSSA, R.C. 1345.21(A), as Gloryview and Benjamin engaged in personal solicitations at the residences of consumers, including solicitations in response to or following invitations by consumers.

STATEMENT OF FACTS

12. Defendants accepted payment from consumers for the purchase of home improvement goods and services, such as materials and installation services for windows and doors, and failed to deliver some of those goods and services within eight weeks.
13. Despite requests from consumers, Defendants have refused to provide several refunds.
14. On numerous occasions, Defendants provided shoddy and substandard home repair services to consumers and then failed to correct such services.
15. At the time of the transactions, Defendants failed to provide some consumers with proper notice of cancellation forms describing the consumers' right to cancel the transactions.
16. Defendants provided consumers with various excuses as to why their work was not completed, and eventually stopped responding to consumers entirely.

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

COUNT ONE **FAILURE TO DELIVER**

17. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs One through Sixteen (1-16) of this Complaint.

18. Defendants have 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 or services ordered, making a full refund, advising the consumer of the duration of an extended delay and offering to send a refund within two weeks if so requested, or furnishing goods or services of equal or greater value as a good faith substitute.

COUNT TWO
SHODDY AND SUBSTANDARD WORK

19. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs One through Sixteen (1-16) of this Complaint.
20. Defendants have committed unfair or deceptive acts or 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. Such acts or practices 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:
VIOLATIONS OF THE HOME SOLICITATION SALES ACT

COUNT ONE
FAILURE TO PROVIDE PROPER NOTICE OF THREE DAY RIGHT OF RECISSION

19. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs One through Sixteen (1-16) of this Complaint.

20. Defendants violated the HSSA, R.C. 1345.23 and R.C. 1345.02(A), by failing to give proper notice to consumers of their right to cancel their contract by a specific date.
21. Such acts or practices 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 prays that this Court grant the following relief:

- A. ISSUE A DECLARATORY JUDGMENT declaring that the acts and practices described herein violate the CSPA, its Substantive Rules, and the HSSA in the manner set forth in this Complaint.
- B. ISSUE PERMANENT INJUNCTIVE RELIEF, pursuant to R.C. 1345.07, enjoining Defendants under these or any other names, and all persons acting on behalf of Defendants directly or indirectly, through any corporate or private device, partnership or association, jointly and severally, from engaging in the acts or 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. 1345.02 et seq.
- C. ISSUE PERMANENT INJUNCTIVE RELIEF enjoining Defendants Gloryview and Benjamin from acting as "suppliers" as that term is defined in R.C. 1345.01(C) by engaging in any consumer transactions in the State of Ohio until the final ordered restitution of this matter is satisfied in its entirety.
- D. ORDER Defendants, pursuant to R.C. 1345.07(B), jointly and severally, to pay restitution to all consumers who suffered injury due to Defendants' unlawful acts or practices.

- E. ASSESS, FINE AND IMPOSE upon Defendants Gloryview and Benjamin, jointly and severally, a civil penalty of up to Twenty-five Thousand Dollars (\$25,000.00) for each separate and appropriate violation described herein, pursuant to R.C. 1345.07(D).
- F. GRANT the Ohio Attorney General his costs in bringing this action.
- 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,

MICHAEL DEWINE
Attorney General


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