

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

STATE OF OHIO ex rel.	)	
ATTORNEY GENERAL	)	CASE NO.
DAVE YOST	)	
30 E. Broad Street, 14th Floor	)	JUDGE
Columbus, Ohio 43215	)	
	)	
Plaintiff,	)	
	)	
v.	)	<b>COMPLAINT AND REQUEST FOR</b>
	)	<b>DECLARATORY JUDGMENT,</b>
GEORGE FRANKLIN CAPPS, JR.,	)	<b>INJUNCTIVE RELIEF,</b>
Individually and	)	<b>CONSUMER RESTITUTION, AND</b>
d/b/a CAPPS CONSTRUCTION	)	<b>CIVIL PENALTIES</b>
3451 Northup Ave., Lot 32	)	
South Bloomfield, Ohio 43103	)	
	)	
Defendant.	)	

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**JURISDICTION AND VENUE**

1. Plaintiff, State of Ohio, through Attorney General 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 the Attorney General by R.C. 1345.07.
  
2. The actions of Defendant George Franklin Capps, Jr., individually and doing business as Capps Construction (“Capps” or “Defendant”), have occurred in Ohio, including in Franklin County and, as set forth below, are in violation of the Ohio Consumer Sales Practices Act (“CSPA”), R.C. 1345.01 et seq., its Substantive Rules, Ohio Administrative Code (“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) because Franklin County is where Defendant conducted some of the transactions complained of herein.

**DEFENDANT**

5. Defendant is a natural person who currently resides at 3451 Northup Ave., Lot 32, South Bloomfield, Ohio 43103.
6. Upon information and belief, Defendant is known to at times go by the first name “Jody,” and has used that first name in his dealings with consumers.
7. Defendant conducted some of his business using the fictitious business name Capps Construction.
8. Defendant is a “supplier” as that term is defined in R.C. 1345.01(C) of the CSPA because Defendant has engaged in the business of effecting “consumer transactions” either directly or indirectly by soliciting and selling home improvement goods or services for purposes that were primarily personal, family, or household, within the meaning of R.C. 1345.01(A).
9. Defendant is a “seller” engaged in “home solicitation sales,” as those terms are defined in R.C. 1345.21(A) and (C) of the HSSA, because Defendant has engaged in personal solicitations at the residences of consumers, including solicitations in response to or following invitations by consumers.

**STATEMENT OF FACTS**

10. Defendant at all times relevant to this action solicited, offered for sale, and sold home improvement goods or services to consumers at their residences, including the services of

building decks, remodeling kitchens and bathrooms, and adding new additions on to consumers' homes.

11. Defendant did not have a physical business location where his goods were exhibited or where his services were offered for sale on a continuing basis.
12. Defendant accepted monetary deposits from consumers for the goods or services.
13. Defendant's contracts that consumers signed did not properly notify consumers about their right to cancel the contracts within three days.
14. Defendant failed to provide consumers with proper "notice of cancellation" forms describing the consumers' right to cancel the contracts within three days.
15. After receiving deposits from consumers for home improvement goods or services, Defendant failed to deliver the home improvement goods or services that were promised to consumers.
16. For some consumers, Defendant began to provide the goods or services but did not complete the work.
17. Consumers who did not receive their goods or services requested refunds from Defendant.
18. Defendant failed to provide requested refunds to consumers for whom he did not deliver the promised goods or services.
19. Home improvement repairs or services that were provided or attempted by Defendant were performed in an incomplete, shoddy, substandard, or unworkmanlike manner.
20. Defendant caused damage to some consumers' property while doing home improvement work.

**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 Paragraphs One through Twenty (1-20) of this Complaint.
22. Defendant engaged in unfair or deceptive acts or practices in violation of R.C. 1345.02(A) of the CSPA and the Failure to Deliver Rule, O.A.C. 109:4-3-09(A), by accepting money from consumers for goods or services, failing to make full delivery of the promised goods or services, and failing to provide full refunds.

**Count II – Shoddy Workmanship**

23. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in Paragraphs One through Twenty (1-20) of this Complaint.
24. Defendant engaged in unfair or deceptive acts or practices in violation of R.C. 1345.02(A) of the CSPA by performing home improvement repairs or services in an incomplete, shoddy, substandard, or unworkmanlike manner.
25. 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 pursuant to R.C. 1345.05(A)(3).

**SECOND CAUSE OF ACTION: VIOLATIONS OF THE HSSA**

**Count I - Failure to Provide Proper Notice of Three-Day Right to Cancel**

26. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in Paragraphs One through Twenty (1-20) of this Complaint.

27. Defendant violated R.C. 1345.23(B) of the HSSA and R.C. 1345.02(A) of the CSPA by failing to give proper notice to consumers of their right to cancel their contracts within three days and by failing to give consumers a notice of cancellation form.
28. 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 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 PERMANENT INJUNCTION, pursuant to R.C. 1345.07(A)(2), enjoining Defendant, doing business under his own name, under the name Capps Construction, or any other names, his 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., its Substantive Rules, O.A.C. 109:4-3-01 et seq., and the HSSA, R.C. 1345.21 et seq., including, but not limited to, violating the specific provisions alleged to have been violated herein.
- B. DECLARE, pursuant to R.C. 1345.07(A)(1), 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 this Complaint.
- C. ORDER Defendant, pursuant to R.C. 1345.07(B), to pay actual damages to all consumers injured by the conduct of Defendant.
- D. ASSESS, FINE, AND IMPOSE upon Defendant a civil penalty of \$25,000 for each separate and appropriate violation described herein pursuant to R.C. 1345.07(D).

- E. GRANT Plaintiff its costs in bringing this action including, but not limited to, the costs of collecting on any judgment awarded.
- F. ISSUE AN INJUNCTION prohibiting Defendant from engaging in business as a supplier in any consumer transaction in Ohio until such time as he has satisfied all monetary obligations ordered by this Court or any other Ohio court, in connection with a consumer transaction.
- G. GRANT such other relief as the Court deems to be just, equitable, and appropriate.
- H. ORDER Defendant to pay all court costs.

Respectfully submitted,

DAVE YOST  
Ohio Attorney General

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