

IN THE COURT OF COMMON PLEAS  
MONTGOMERY COUNTY, OHIO

STATE OF OHIO, ex rel.	)	
ATTORNEY GENERAL	)	Case No:
DAVE YOST	)	
30 East Broad Street, 14 <sup>th</sup> Floor	)	
Columbus, Ohio 43215	)	
	)	
Plaintiff,	)	Judge:
	)	
v.	)	
	)	
AMERICAN MEMORIAL	)	
MONUMENTS, LLC	)	<u>COMPLAINT, REQUEST FOR</u>
c/o registered agent	)	<u>DECLARATORY AND</u>
Legalinc Corporate Services, Inc.	)	<u>INJUNCTIVE RELIEF,</u>
1991 Crocker Road, Ste 600A	)	<u>CONSUMER RESTITUTION, CIVIL</u>
Westlake, Ohio 44145	)	<u>PENALTIES, AND OTHER</u>
	)	<u>APPROPRIATE RELIEF</u>
and	)	
	)	
DARREN BOYKIN	)	
1719 Auburn Avenue	)	
Dayton, Ohio 45406	)	
	)	
Defendants.	)	

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**JURISDICTION AND VENUE**

1. Plaintiff, State of Ohio, by and through 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 and impacted consumers under the authority vested in him by R.C. 1345.07.

2. The actions of Defendants, American Memorial Monuments, LLC and Darren Boykin (“Defendants”), have occurred 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.
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(C)(2) and (C)(3), as Defendants have their principal place of business in Montgomery County and conducted activity that gave rise to the claim for relief in Montgomery County.

### DEFENDANTS

5. Defendant American Memorial Monuments, LLC (“American Memorial”) is a for-profit corporation registered in the State of Ohio with a principal place of business in Dayton, Ohio.
6. Defendant Darren Boykin (“Boykin”) is an adult person who was or is a resident of the State of Ohio, and who was and is an owner, employee, officer, or director of Defendant American Memorial.
7. Upon information and belief, Defendant Boykin directed, supervised, approved, formulated, authorized, ratified, or otherwise participated in the acts and practices hereinafter alleged.
8. Defendants are “suppliers” as defined in R.C. 1345.01(C) because Defendants were, at all times relevant hereto, engaged in the business of effecting consumer transactions either directly or indirectly by soliciting and selling goods or services to consumers in the State of Ohio for purposes that were primarily for personal, family or household use, within the meaning specified in R.C. 1345.01(A).

## STATEMENT OF FACTS

9. Defendants operate a memorial monument business in Dayton, Ohio and surrounding areas.
10. Defendants enter into contracts with consumers to provide them with a memorial monument for the consumers or their deceased relatives or friends and to set the monument in a cemetery or similar location.
11. Defendants take payment upfront from the consumers, often for the full cost of the monument.
12. Defendants do not make the monuments, instead contracting with a third-party to do so.
13. Many consumers who paid Defendants for memorial monuments never received their monuments.
14. For some consumers who did receive their monuments, Defendants provided monuments with designs or words that differed from the designs or words ordered by the consumers.
15. Defendants contracted with consumers to design the monuments for setting at a specific cemetery chosen by the consumers.
16. For some consumers, the monument Defendants designed was not able to be set in the consumer's chosen cemetery because it did not meet the dimensional or structural requirements for the cemetery.
17. Defendants did not provide refunds to many consumers who did not receive monuments or who received incorrect monuments.
18. The Ohio Attorney General's office has received consumer complaints about Defendants' services. Since October 27, 2017, twenty-two consumers have filed complaints for a total loss of approximately \$50,000.

**PLAINTIFF'S CAUSE OF ACTION: VIOLATIONS OF THE CSPA**

**COUNT I – FAILURE TO DELIVER**

19. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs 1-18 of this Complaint.
20. 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 good and services and then permitting eight weeks to elapse without making shipment or deliver of the goods and 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 similar goods or services of equal or greater value as a good faith substitute.

**COUNT II – MISREPRESENTING THE SUBJECT OF A TRANSACTION**

21. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs 1-18 of this Complaint.
22. Defendants committed unfair or deceptive acts or practices in violations of the CSPA, R.C. 1345.02(A), by representing that the subject of a consumer transaction had sponsorship, approval, performance characteristics, uses, or benefits that it did not have, specifically a) that a consumer's memorial monument would include the consumer's chosen design or wording; and b) that a consumer's monument met the requirements to be set in the consumer's chosen cemetery.
23. 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 the 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:

1. **ISSUE A DECLARATORY JUDGMENT**, pursuant to R.C. 1345.07(A), declaring that each act or practice described in Plaintiff's Cause of Action violates the CSPA, R.C. 1345.01 et seq.
2. **ISSUE A PERMANENT INJUNCTION**, pursuant to R.C. 1345.07(A), enjoining Defendants American Memorial Monuments, LLC and Darren Boykin, their agents, and all persons acting in concert or participating with them, from committing further violations of the acts or practices described in Plaintiff's Cause of Action, and enjoining Defendant Darren Boykin from engaging in consumer transactions as a supplier in the State of Ohio until all consumer restitution and civil penalties ordered pursuant to this action have been paid or for a period of five (5) years, whichever is later.
3. **ORDER**, pursuant to R.C. 1345.07(B), Defendants American Memorial Monuments, LLC and Darren Boykin jointly and severally liable to reimburse all consumers or purchasers damaged by their unfair or deceptive acts or practices that violate the CSPA.
4. **ASSESS, FINE, AND IMPOSE** Defendants American Memorial Monuments, LLC and Darren Boykin, jointly and severally, a civil penalty of Twenty-Five Thousand Dollars (\$25,000) for each appropriate violation described herein, pursuant to R.C. 1345.07(D).
5. **GRANT** the Ohio Attorney General its costs in bringing this action, including, but not limited to, the costs of collecting on any judgment awarded.
6. **ORDER** Defendants American Memorial Monuments, LLC and Darren Boykin to pay all court costs.
7. **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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