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COMMON PLEAS DIVISION

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TRACY WINKLER
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Hamilton County, Ohio
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**OHIO ATTORNEY GENERAL
MICHAEL DEWINE**

A 1503178

**vs.
KODY SICKLES**

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DEMAND**

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IN THE COURT OF COMMON PLEAS
HAMILTON COUNTY, OHIO

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

Plaintiff,)

v.)

KODY SICKLES)
DBA KJ'S TREE SPECIALISTS)
1526 W. Main Street)
Springfield, Ohio 45504)

Defendant.)

CASE NO.

JUDGE

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

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, as described below, have occurred in counties throughout Ohio, including Hamilton 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, 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 (B)(3) in that Hamilton County is a county in which Defendant conducted activity that gave rise to the claim for relief.

DEFENDANT

5. Defendant Kody Sickles (“Sickles”) is a natural person who resides at 1526 W. Main Street, Springfield, Ohio 45504.
6. At all times relevant to this action, Defendant Sickles engaged in business using the fictitious name KJ’s Tree Specialists.
7. Defendant is a “supplier” as that term is defined in R.C. 1345.01(C), as Defendant was, at all times relevant herein, engaged in the business of effecting consumer transactions by soliciting and providing services to individuals for purposes that were primarily personal, family, or household within the meaning specified in R.C. 1345.01(A) and (D).
8. Defendant engaged in “home solicitation sales” as that term is defined in R.C. 1345.21(A), as Defendant was, at all times relevant herein, engaged in personal solicitations at the residence of the buyer.

STATEMENT OF FACTS

9. At all times relevant to this action, Defendant Sickles engaged in the business of advertising, soliciting, offering, and selling tree and lawn services to consumers using the fictitious name KJ’s Tree Specialists.
10. Defendant solicited, offered, and sold the tree and lawn services by going to consumers’ residences.
11. At the time of the transactions, Defendant failed to inform and provide consumers with a notice of their three day right to cancel.

12. Defendant accepted full payments from consumers for tree and lawn services but only partially completed the services for which he was paid.
13. Consumers paid to have trees cut down and removed from their yards.
14. In some instances, Defendant and his employees cut down the trees but failed to completely remove the tree stumps, limbs, and other debris as promised.
15. In at least three instances, Defendant caused residential damage while cutting and trimming trees.
16. Defendant conducted business in the State of Ohio using a fictitious business name that Defendant never registered with the Ohio Secretary of State.
17. All facts alleged above have occurred in the last two years prior to this lawsuit.

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

COUNT I
FAILURE TO DELIVER VIOLATION

18. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs 1-17 of this Complaint.
19. Defendant committed unfair or deceptive acts or practices in violation of R.C. 1345.02 of the CSPA and the Failure to Deliver Rule, O.A.C. 109:4-3-09(A)(2), by accepting money from consumers for tree and lawn services and permitting eight weeks to elapse without delivering all the promised services or issuing a full refund.

COUNT II
SHODDY OR UNWORKMANLIKE SERVICES

20. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs 1-17 of this Complaint.

21. Defendant committed unfair or deceptive acts or practices in violation of R.C. 1345.02(A) of the CSPA, by performing tree and lawn services in an incomplete, shoddy, or unworkmanlike manner.
22. 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
FAILURE TO REGISTER FICTITIOUS NAME

23. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs 1-17 of this Complaint.
24. Defendant committed unfair or deceptive acts or practices in violation of R.C. 1345.02(A) of the CSPA, by failing to register with the Ohio Secretary of State his use of a fictitious business name as required by R.C. 1329.01.
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.

SECOND CAUSE OF ACTION
VIOLATION OF THE HOME SOLICITATION SALES ACT

COUNT IV
FAILURE TO PROVIDE NOTICE OF
THREE DAY RIGHT OF RESCISSION

26. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs 1-17 of this Complaint.
27. Defendant violated HSSA, R.C. 1345.23 and R.C. 1345.02(A), by failing to provide notice to consumers of their right to cancel their contract by a specific date.

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.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this Court grant the following relief:

- A. ISSUE a permanent injunction enjoining Defendant Kody Sickles, doing business as KJ's Tree Specialists or under any other names, his agents, representatives, salesmen, employees, successors, or assigns, and all persons acting in concert and participation with him, directly or indirectly, from committing any unfair, deceptive, or unconscionable act or practice that violates the CSPA, R.C. 1345.01 et seq., its Substantive Rules, O.A.C. 109:4-3-01 et seq., or HSSA, R.C. 1345.21 et seq., including, but not limited to, violations of the specific code sections and rules set forth herein.
- B. DECLARE that each act or practice complained of herein violates the CSPA and its Substantive Rules in the manner set forth in this Complaint.
- C. ASSESS, FINE, AND IMPOSE upon Defendant a civil penalty of Twenty-Five Thousand Dollars (\$25,000.00) for each separate and appropriate violation described herein, pursuant to R.C. 1345.07(D).
- D. ORDER Defendant to pay damages, including non-economic damages, to all consumers injured by the conduct of the Defendant as set forth in this Complaint.
- E. 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, related to the conduct set forth herein.

- F. GRANT the Ohio Attorney General his costs in bringing this action.
- G. ORDER Defendant to pay all court costs.
- H. GRANT such other relief as the Court deems to be just, equitable, and appropriate.

Respectfully submitted,

MICHAEL DEWINE
Ohio Attorney General

/s/ Brittany M. Steele
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