

IN THE COURT OF COMMON PLEAS
AUGLAIZE COUNTY, OHIO

AUGLAIZE COUNTY
COMMON PLEAS COURT
FILED

2023 MAR 30 AM 10:00

I. JEAN MECKSTROTH
CLERK OF COURTS

STATE OF OHIO ex rel.
ATTORNEY GENERAL
DAVE YOST
615 W. Superior Ave., 11th Floor
Cleveland, Ohio 44113

Plaintiff,

v.

GRIZZLY BUILDINGS LLC
c/o Statutory Agent
LEGALINC CORPORATE SERVICES
INC.
1991 CROCKER ROAD SUITE 600A
WESTLAKE, OHIO 44145

and

JERRY WEEKS
16754 STATE ROUTE 67
WAPAKONETA, OHIO 45895

Defendants.

Case No.: 2023 CV 0048

Judge:

COMPLAINT AND REQUEST FOR
DECLARATORY JUDGMENT,
INJUNCTIVE RELIEF, CIVIL
PENALTIES, AND OTHER
APPROPRIATE RELIEF

JURISDICTION AND VENUE

1. Plaintiff, State of Ohio, by and through its 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 under the authority vested in him by the Consumer Sales Practices Act, ("CSPA") R.C. 1345.01 *et seq.*
2. The actions of Grizzly Buildings LLC and Jerry Weeks ("Defendants"), hereinafter described, have occurred in Logan and other counties in the State of Ohio and, as set forth

below, are in violation of the CSPA, R.C. 1345.01, *et seq.* and its Substantive Rules, Ohio Admin. Code 109:4-3-01 *et seq.*, and the Home Solicitation Sales Act (“HSSA”), R.C. 1345.21 *et seq.* and the Home Construction Service Suppliers Act (“HCSSA”), R.C. 4722.01 *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)(1) and (2), in that Defendant resides in Auglaize County and his principal place of business is in Auglaize County.

DEFENDANT

5. Defendant Grizzly Buildings LLC (“Grizzly”) is an Ohio Limited Liability Company with its principal place of business in Wapakoneta, Ohio and whose Articles of Organization were filed and recorded with the Ohio Secretary of State on March 3, 2020.
6. Defendant Jerry Weeks (“Weeks”) is the sole owner of Defendant Grizzly Buildings LLC and resides at 16754 State Route 67 Wapakoneta, Ohio 45895.
7. At all times relevant herein, Defendant Weeks dominated, controlled and directed the business activities and sales conduct of Defendant Grizzly and exercised the authority to establish, implement, or alter the policies of Defendant Grizzly, and committed, allowed, directed, ratified or otherwise caused the following unlawful acts to occur.
8. Defendants are “supplier(s),” as they engaged in the business of effecting “consumer transactions,” either directly or indirectly, by soliciting or selling home improvement goods or services to “consumers” for purposes that were primarily for personal, family or household use, as those terms are defined in R.C. 1345.01(A), (C) and (D).

9. Defendants are “home construction service supplier(s)” engaged in “home construction services” as those terms are defined in the HCSSA, R.C. 4722.01(B) and (D) because Defendants contracted with owners to construct a “residential building” for compensation.
10. Defendants are “sellers” engaging in “home solicitation sales” of “consumer goods or services” as those terms are defined in the HSSA, R.C. 1345.21(A), (C) and (E), because Defendants engaged in personal solicitations at the residences of consumers, including solicitations in response to or following invitations by consumers.

STATEMENT OF FACTS

11. Defendants are, and were at all times relevant hereto, engaged in the business of advertising, soliciting, offering for sale and/or selling home improvement goods and services, including but not limited to, installation of pole barns and post frame buildings.
12. Defendants do not have a retail business establishment having a fixed permanent location where goods are exhibited or services are offered for sale on a continuing basis.
13. Defendants entered into contracts with consumers to provide home improvement and repair services, include installation of pole barns and post frame buildings.
14. Defendants accepted substantial down payments from consumers, but failed to begin work for which it was paid.
15. After receiving payment, Defendants sometimes began work but failed to complete the work.
16. Defendants did not provide consumers with notice of an extended delay or offer to send the consumers a refund.
17. Defendants have refused to refund consumers’ deposits or payments despite consumers’ requests for refunds.

18. Defendants represented to consumers that it would provide the ordered goods and services promptly or within an estimated time and then failed to provide such goods and services in the time promised.
19. In instances where Defendants performed work, they provided shoddy and substandard installation of pole barns and post frame buildings, and other services to consumers and then failed to correct such work. In some instances, Defendants' shoddy workmanship caused additional damage to consumers' properties.
20. At the time of the transactions, Defendants failed to provide proper notice to consumers of their rights to cancel the transactions, including providing a detachable notice of cancellation form.
21. In addition to providing home improvement and repair services, Defendants sometimes contracted with consumers to construct pole barns and post frame buildings, at a cost that exceeded \$25,000.
22. On these home construction contracts, Defendants accepted down payments for contracts exceeding \$25,000, and the down payments taken exceeded ten percent (10%) of the contract price.
23. The home construction contracts failed to include certain required information including, but not limited to, Defendants' taxpayer identification number, the anticipated start and completion dates and a copy of Defendants' certificate of general liability coverage in an amount not less than \$250,000.
24. For the home construction services contracts, Defendants failed to deliver the work contracted for, and failed to provide a full refund within a reasonable time period.

25. For the home construction services contracts, Defendants performed the work in an unworkmanlike manner.
26. Defendants' failure to perform contracted home improvement and home construction services in a proper manner has resulted in harm to consumers.

PLAINTIFF'S FIRST CAUSE OF ACTION:

VIOLATIONS OF THE CSPA

COUNT I- FAILURE TO DELIVER

27. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth previously in this Complaint.
28. 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 promising prompt delivery of goods or services without taking reasonable action to insure prompt delivery, and accepting money from consumers for goods and services and then permitting eight weeks to elapse without making shipment or delivery of the goods and services ordered, making a full refund, advising the consumers 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- SHODDY AND SUBSTANDARD WORK

29. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth previously in this Complaint.
30. Defendants committed unfair or deceptive acts and practices in violation of the CSPA, R.C. 1345.02(A), by performing services in an incomplete, substandard, shoddy, and/or unworkmanlike manner and failing to correct such work.

31. 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 said violations after such decisions were available for public inspection pursuant to R.C. 1345.05(A)(3).

COUNT III - ABANDONING THE WORKSITE AFTER PARTIAL PERFORMANCE

32. Plaintiff incorporates by reference, as if rewritten herein, the allegations set forth previously in this Complaint.

33. Defendants violated the CSPA, R.C. 1345.02(A), by accepting partial payment from consumers and beginning work at consumers' residences, but abandoning the work site and refusing to complete performance of the contracted work.

34. The acts and practices described above 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:

VIOLATION OF THE HSSA

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

35. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth previously in this Complaint.

36. Defendants violated the HSSA, R.C. 1345.23 and the CSPA, R.C. 1345.02(A), by failing to evidence sales with written agreements that provide proper notice to consumers of their rights to cancel their transactions, including providing seller signed and dated detachable notice of cancellation forms.

37. The acts or practices described above have been previously determined by Ohio courts to

violate the CSPA, R.C. 1345.01, *et seq* and the HSSA, R.C. 1345.21 *et seq*. Defendants committed said violations after such decisions were made available for public inspection pursuant to R.C. 1345.05(A)(3).

PLAINTIFF'S THIRD CAUSE OF ACTION:

VIOLATIONS OF THE HCSSA

COUNT I - FAILURE TO PROVIDE SERVICE CONTRACTS CONTAINING ALL STATUTORILY REQUIRED INFORMATION

38. Plaintiff incorporates by reference, as if rewritten herein, the allegations set forth previously in this Complaint.

39. Defendants violated the HCSSA, R.C. 4722.02, by entering into home construction services contracts with owners, and not including all of the required information in the contracts, such as Defendants' mailing address, taxpayer identification number, the owner's address and telephone number, the address or location of the property where the home construction services were to be performed, the anticipated start and completion dates for the project, required language pertaining to excess costs, failing to provide a copy of Defendants' certificate of general liability coverage in an amount not less than \$250,000, and the dated signatures of the Defendants and owners on the contract.

COUNT II - REQUIRING DEPOSIT IN EXCESS OF 10% OF CONTRACT PRICE

40. Plaintiff incorporates by reference, as if rewritten herein, the allegations set forth previously in this Complaint.

41. Defendants violated the HCSSA, R.C. 4722.04, by requiring and accepting monetary deposits from consumers in excess of ten percent of the cost of the home construction services contract.

COUNT III - FAILURE TO DELIVER

42. Plaintiff incorporates by reference, as if rewritten herein, the allegations set forth previously in this Complaint.

43. Defendants violated the HCSSA, R.C. 4722.03(A)(3)(f), by entering into home construction services contracts with owners, failing to deliver services in accordance with the terms and conditions of the contract, and failing to provide a full refund within a reasonable time period.

COUNT IV - PERFORMING SERVICES IN AN UNWORKMANLIKE MANNER

44. Plaintiff incorporates by reference, as if rewritten herein, the allegations set forth previously in this Complaint.

45. Defendants violated the HCSSA, R.C. 4722.03(A)(3)(d), by entering into home construction services contracts with owners, and failing to perform the services in a workmanlike manner.

PRAYER FOR RELIEF

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

A. ISSUE A DECLARATORY JUDGMENT 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.*, the HSSA, R.C. 1345.21 *et seq.*, and the HCSSA, R.C. 4722.01 *et seq.*, in the manner set forth in the Complaint.

B. ISSUE A PERMANENT INJUNCTION enjoining the Defendants, their agents, employees, successors or assigns, and all persons acting in concert and participation with it, directly or indirectly, through any corporate device, partnership, or other association, under these or any other names, from engaging in the acts and 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.*, the HSSA, R.C. 1345.21 *et seq.* and the HCSSA, R.C. 4722.01 *et seq.*

- C. ORDER Defendants, pursuant to R.C. 1345.07(B), to pay actual damages to all consumers injured by the conduct of the Defendants as set forth in this Complaint.
- D. ASSESS, FINE and IMPOSE upon Defendants a civil penalty of up to \$25,000.00 for each separate and appropriate violation of the CSPA described herein pursuant to R.C. 1345.07(D) and 4722.07(D).
- E. ISSUE AN INJUNCTION prohibiting Defendants from engaging in business as a supplier in any consumer transactions in this state until such time as Defendants has satisfied all monetary obligations ordered pursuant to this litigation.
- F. GRANT Plaintiff its costs incurred in bringing this action, including, but not limited to, the costs of collecting on any judgment awarded.
- G. ORDER Defendants to pay all court costs associated with this matter.
- H. ORDER Defendants liable for all monetary amounts awarded herein.
- I. GRANT such other relief as the Court deems to be just, equitable, and appropriate.

Respectfully submitted,

DAVE YOST
Attorney General



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