

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

STATE OF OHIO ex rel.)
OHIO ATTORNEY GENERAL)
DAVE YOST)
30 E. Broad Street, 14th Floor)
Columbus, Ohio 43215)
)
Plaintiff,)
v.)
)
SUPERIOR CONCRETE AND)
HARDSCAPE DESIGN LLC)
c/o Justin Cole Hensley, Registered Agent)
4183 Birnam Drive)
Independence, KY 41051)
)
and)
)
JUSTIN COLE HENSLEY)
4183 Birnam Drive)
Independence, KY 41051)
)
Defendants.)

CASE NO.

JUDGE

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

JURISDICTION AND VENUE

1. Plaintiff, State of Ohio, through counsel 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, described below, of Defendants Superior Concrete and Hardscape Design LLC and Justin Cole Hensley (“Defendants”), have occurred in the State of Ohio, including in Butler County, and are in violation of the Consumer Sales Practices Act (“CSPA”), R.C. 1345.01 et seq., its Substantive Rules, Ohio Adm.Code 109:4-3-01 et seq., and the Home Solicitation Sales Act (“HSSA”), 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), in that Butler County is where Defendants conducted some of the transactions complained of herein.

DEFENDANTS

5. Defendant Superior Concrete and Hardscape Design LLC was a Kentucky limited liability corporation with its principal address at 4183 Birnam Drive, Independence, KY 41051.
6. The status of the Kentucky Secretary of State business registration for Superior Concrete and Hardscape Design LLC is inactive.
7. Defendant Justin Cole Hensley is a natural person who resides at 4183 Birnam Drive, Independence, KY 41051.
8. Defendants are “suppliers” as that term is defined in R.C. 1345.01(C) of the CSPA because Defendants have engaged in the business of effecting “consumer transactions” either directly or indirectly by soliciting and selling home improvement goods and services to consumers in Butler County and other counties in Ohio for purposes that were primarily for personal, family, or household use, within the meaning of R.C. 1345.01(A).
9. Defendants engaged in “home solicitation sales” as “sellers” as those terms are defined in the HSSA, R.C. 1345.21, as they made personal solicitation of sales at the residences of “buyers” within the meaning of R.C. 1345.21(A), (C), and (D).

STATEMENT OF FACTS

10. Defendants were engaged in the business of soliciting, offering for sale, or selling home improvement goods or services to consumers, mainly asphalt and concrete repair, replacement and installation.

11. Defendants do not have a physical business location where their goods and services are exhibited or offered for sale on a continuing basis but solicit and sell their services at the homes of consumers.
12. Defendants accepted monetary deposits from consumers for the purchase of home improvement goods or services, mainly asphalt and concrete repair, replacement and installation.
13. In some instances, after accepting money from consumers for home improvement goods or services, Defendants failed to deliver the home improvement goods or services that were promised to consumers.
14. In some instances, Defendants' home improvement services, mainly asphalt and concrete repair, replacement and installation, were performed in an incomplete, shoddy, substandard, or unworkmanlike manner which Defendants failed to correct.
15. In those instances, consumers had to pay other contractors to have the work repaired or redone.
16. Defendants have performed home improvement services, mainly asphalt and concrete repair, replacement and installation, in jurisdictions which required a permit to perform such work and failed to obtain the necessary permits before beginning the home improvement goods or services.
17. During their solicitation and sale of home improvement goods and services, Defendants did not notify consumers of their cancellation rights, nor did they provide the consumers with a notice of cancellation form.

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

Count I – Failure to Deliver

18. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in the preceding paragraphs of this Complaint.
19. Defendants 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, Ohio Adm.Code 109:4-3-09(A), by accepting money from consumers for goods or 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.
20. Such acts or practices have been declared to be a violation of the CSPA pursuant to Ohio Adm.Code 109:4-3-09(A). Defendants committed said violations after the adoption of this Rule.

Count II – Shoddy Workmanship

21. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in the preceding paragraphs of this Complaint.
22. Defendants 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 and failing to correct such work.
23. 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).

Count III – Failing to Obtain Necessary Permits

24. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in the preceding paragraphs of this Complaint.
25. Defendants engaged in unfair or deceptive acts or practices in violation of R.C. 1345.02(A) of the CSPA, by performing home improvement services, mainly asphalt and concrete replacement and installation, in jurisdictions which require permits to perform such work and failing to obtain the necessary permits before beginning the home improvement repairs or services.
26. 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: VIOLATION OF THE HSSA

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

27. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in the preceding paragraphs of this Complaint.
28. Defendants violated the CSPA, R.C. 1345.02(A), and the HSSA, R.C. 1345.23(B), by failing to include appropriate cancellation language in the contracts entered into with consumers, or giving consumers a separate, appropriately worded “notice of cancellation” required by R.C. 1345.23(B)(2) or otherwise informing consumers of how and when to give notice of cancellation as required by R.C. 1345.23(B)(3).
29. 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 made 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 Defendants Superior Concrete and Hardscape Design LLC and Justin Cole Hensley, doing business under their own names or any other names, their agents, representatives, salespeople, employees, successors, or assigns, and all persons acting in concert or participating with them, 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., and its Substantive Rules, Ohio Adm.Code 109:4-3-01 et seq., and the HSSA, R.C. 1345.21 et seq., including, but not limited to, violating the specific statutes and rules alleged to have been violated herein.
- B. DECLARE that each act or practice complained of herein violates the CSPA, R.C. 1345.01 et seq., its Substantive Rules, Ohio Adm.Code 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 Defendants, pursuant to R.C. 1345.07(B), to pay actual damages, including non-economic damages, to all consumers injured by the conduct of Defendants.
- D. ASSESS, FINE, AND IMPOSE upon Defendants 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.
- F. GRANT such other relief as the Court deems to be just, equitable, and appropriate.
- G. ORDER Defendants to pay all court costs.

Respectfully submitted,

DAVE YOST
Ohio Attorney General

/s/ Rosemary E. Rupert

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