

IN THE COURT OF COMMON PLEAS
LICKING COUNTY, OHIO

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LICKING CO. OHIO
2019 MAY 30 AM 8:21
GARY R. WALTERS
CLERK

STATE OF OHIO, ex rel.)
ATTORNEY GENERAL)
DAVE YOST)
30 East Broad Street, 14th Floor)
Columbus, Ohio 43215)

Plaintiff,)

v.)

CMI WASTE REMOVAL SERVICE, INC.)
c/o registered agent)
Daniel G. Shackelford Jr.)
695 McKinley Ave)
Newark, Ohio 43055)

and)

DANIEL SHACKLEFORD JR.)
139 Myrtle Avenue)
Newark, Ohio 43055)

Defendants.)

Case No:

19CV00553

Judge:

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

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, CMI Waste Removal Services, Inc. and Daniel Shackelford Jr. ("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)(1) and (C)(3), as Defendants have their principal place of business in Licking County and conducted activity that gave rise to the claim for relief in Licking County.

DEFENDANTS

5. Defendant CMI Waste Removal Service, Inc. (“CMI Waste”) is a for-profit corporation registered in the State of Ohio with a principal place of business in Newark, Ohio.
6. Defendant Daniel Shackelford Jr. (“Shackelford”) 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 CMI Waste.
7. Upon information and belief, Defendant Shackelford 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 solid waste and trash collection company in Newark, Ohio and surrounding areas.

10. Consumers enter into contracts or agreements with Defendants wherein Defendants agree to pick up trash and other waste from the consumers' homes on a regular, and often weekly, schedule. The contracts are often for a year of services.
11. After entering into agreements to perform trash collection services with consumers, Defendants often failed to perform the services.
12. Defendants commonly missed pick up dates and did not pick up trash for consumers, sometimes for several months.
13. When consumers attempted to contact Defendants about missed pick up dates or poor service, Defendants did not call the consumers back. Often, the Defendants' voicemail was full.
14. Many consumers requested refunds from Defendants for the missed services. Defendants often did not provide refunds.
15. When some consumers attempted to cancel their services or agreements, Defendants continued to charge them for several months.
16. The Ohio Attorney General's office has received consumer complaints about Defendants' services. Since June 1, 2017, 26 consumers have filed complaints about Defendants with the Ohio Attorney General.

PLAINTIFF'S CAUSE OF ACTION: VIOLATIONS OF THE CSPA

COUNT I -- FAILURE TO DELIVER

17. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs 1-16 of this Complaint.

18. 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

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 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 that services would be performed on a regular, and often weekly, basis.

21. 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 such 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 CMI Waste Removal Services Inc. and Daniel Shackelford Jr., 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 Defendants CMI Waste Removal Services Inc. and Daniel Shackelford Jr from engaging in consumer transactions in the State of Ohio until all consumer restitution and civil penalties ordered pursuant to this action have been paid.
3. **ORDER**, pursuant to R.C. 1345.07(B), Defendants CMI Waste Removal Services Inc. and Daniel Shackelford Jr. 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 CMI Waste Removal Services Inc. and Daniel Shackelford Jr., 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.
6. **ORDER** Defendants CMI Waste Removal Services Inc. and Daniel Shackelford Jr. 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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Assistant Attorney General

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