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LUCAS COUNTY

2013 NOV 21 PM 1:49

COMMON PLEAS COURT
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IN THE COURT OF COMMON PLEAS OF LUCAS COUNTY, OHIO

CI0201305353

State of Ohio, ex rel.)
Attorney General Michael DeWine)
30 E. Broad St., 14th Floor)
Columbus, Ohio 43215)

Case No.

Judge

ASSIGNED TO JUDGE McDONALD

Plaintiff,)

v.)

COMPLAINT FOR DECLARATORY
JUDGMENT, INJUNCTIVE RELIEF,
CONSUMER RESTITUTION, AND
CIVIL PENALTY

Roger Sutherland)
d/b/a Toledo Appliance Repair)
541 St. Louis St.)
Toledo, Ohio 43605)

and)

Shawn Wheeler)
d/b/a Toledo Appliance Repair)
541 St. Louis St.)
Toledo, Ohio 43605)

Defendants.)

JURISDICTION AND VENUE

1. Michael DeWine, Attorney General of Ohio, 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 Ohio Consumer Sales Practices Act, R.C. 1345.01 et seq. (“CSPA”)

2. The actions of the Defendants, hereinafter described, have occurred in the State of Ohio, in Lucas County and other counties in Ohio and, as set forth below, are in violation of the CSPA.
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)(1), (2), and (3), in that Defendants reside in, maintain their principal place of business in and conduct some of the transactions complained of herein in Lucas County.
5. The Ohio Attorney General is the proper party to commence these proceedings under the authority provided him under R.C. 1345.07.

DEFENDANTS

6. Defendants Roger Sutherland and Shawn Wheeler (“Defendants”) are engaged in the business of providing home appliance repair services and selling parts to consumers.
7. Defendants’ principal place of business is located at 541 St. Louis Street, Toledo, Ohio 43605.
8. Defendants have used the fictitious name “Toledo Appliance Repair” while conducting business in Ohio, including Lucas County, and all references to Defendants throughout this Complaint include any actions taken by others on behalf of Toledo Appliance Repair.
9. Defendants have also used the fictitious names “Toledo Appliance Guys” and “Brothers Appliance.”

10. Defendants are “suppliers” as that term is defined in R.C. 1345.01(C) as Defendants were, at all times relevant herein, engaged in the business of effecting consumer transactions by selling, advertising, and performing appliance repair services and selling parts to consumers for purposes that were primarily for personal, family or household use, within the meaning specified in R.C. 1345.01(A) and (D).

STATEMENT OF FACTS

11. Defendants are, and have been at all relevant times, engaged in the business of selling, advertising, and performing appliance repair services at consumers’ homes in the State of Ohio, including Lucas County.

12. Defendants advertise their appliance repair services on Craigslist.

13. Defendants advertise that they accept credit card payments, but upon arriving at consumers’ homes, they tell consumers that they only accept cash.

14. Defendants failed to give consumers proper estimates for work, materials, or services.

15. Defendants failed to provide estimates of the anticipated cost of the repair or service to consumers, even when asked to do so.

16. Defendants performed repairs on consumers’ appliances and then demanded payment without first getting authorization from the consumers to make the repairs.

17. Defendants provided shoddy or unworkmanlike services to consumers by performing repairs on consumers’ appliances that quickly broke again, often within hours or days of the repairs.

18. Defendants informed consumers that their appliance repair services were covered by a one-year warranty.

19. When the equipment broke shortly after the repair or within the one-year warranty period, Defendants informed consumers that they would return to perform additional repairs on the appliances, but never did.
20. At least two consumers paid Defendants a substantial sum of money for parts needed on a repair but Defendants failed to deliver the items for which consumers had paid and did not provide refunds of consumers' money.
21. Defendants conducted business in the State of Ohio, including Lucas County, without registering their business or trade name with the Ohio Secretary of State.

PLAINTIFF'S CAUSES OF ACTION

COUNT I **UNFAIR OR DECEPTIVE ACTS OR PRACTICES**

22. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs One through Twenty-One (1-21) of this Complaint.
23. Defendants committed unfair or deceptive acts or practices in violation of R.C. 1345.02(A) by performing shoddy and unworkmanlike services in connection with consumer transactions.
24. Such acts and practices have been previously determined by Ohio courts to violate the CSPA. Defendants committed said violations after such decisions were available for public inspection pursuant to R.C. 1345.05(A)(3).

COUNT II **UNFAIR OR DECEPTIVE ACTS AND PRACTICES**

25. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs One through Twenty-One (1-21) of this Complaint.

26. Defendants committed deceptive acts or practices in violation of the CSPA, R.C. 1345.02(A) and R.C. 1345.02(B)(1), by representing that the subject of a consumer transaction had sponsorship, approval, performance characteristics, accessories, uses, or benefits that it did not have.
27. Such acts and practices have previously been determined by Ohio courts to violate the CSPA. Defendants committed said violations after such decisions were available for public inspection pursuant to R.C. 1345.05(A)(3).

COUNT III
UNFAIR OR DECEPTIVE ACTS OR PRACTICES

28. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs One through Twenty-One (1-21) of this Complaint.
29. Defendants committed deceptive acts or practices in violation of the CSPA, R.C. 1345.02(A) and R.C. 1345.02(B)(10), by representing that consumer transactions involved a warranty, when they did not.
30. Such acts and practices have previously been determined by Ohio courts to violate the CSPA. Defendants committed said violations after such decisions were available for public inspection pursuant to R.C. 1345.05(A)(3).

COUNT IV
REPAIRS OR SERVICES

31. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs One through Twenty-One (1-21) of this Complaint.
32. Defendants committed deceptive acts or practices in violation of the CSPA, R.C. 1345.02(A) and the Ohio Adm. Code 109:4-3-05(B), by failing, where the anticipated cost of the repair or service exceeded twenty-five dollars and where the repair or service was to be performed

at the consumer's residence, to orally inform the consumer at the time of the initial face to face contact and prior to the commencement of the repair or service, of the consumer's right to receive a written or oral estimate and to provide the consumer with a form which conformed to the requirements of Ohio Adm. Code 109:4-3-05(A)(1).

COUNT V
REPAIRS OR SERVICES

33. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs One through Twenty-One (1-21) of this Complaint.
34. Defendants committed deceptive acts or practices in violation of the CSPA, R.C. 1345.02(A) and the Ohio Adm. Code 109:4-3-05(D)(6) by charging consumers repair and services which has not been authorized by the consumers.

COUNT VI
FAILURE TO DELIVER

35. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs One through Twenty-One (1-21) of this Complaint.
36. Defendants committed deceptive acts or practices in violation of the CSPA, R.C. 1345.02(A) and Ohio Adm. Code 109:4-3-09, by accepting money from consumers for goods and services and failing to make full delivery or provide refunds.

COUNT VII
FAILURE TO REGISTER TRADE NAME

37. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs One through Twenty-One (1-21) of this Complaint.
38. Defendants committed unfair or deceptive acts or practices in violation of R.C. 1345.02(A) by failing to comply with R.C. 1329.01 by not registering Toledo Appliance Repair with the Ohio Secretary of State.

39. Such acts and practices have been previously determined by Ohio Courts to violate the CSPA. Defendants committed said violations after such decisions were available for public inspection pursuant to R.C. 1345.05(A)(3).

PRAYER FOR RELIEF


WHEREFORE, Plaintiff respectfully prays that this Court:

1. DECLARE that each act or practice complained of herein violates the CSPA and the Ohio Administrative Code in the manner set forth in the Complaint.
2. ISSUE PERMANENT INJUNCTIVE RELIEF, pursuant to R.C. 1345.07, enjoining Defendants Roger Sutherland and Shawn Wheeler, doing business under those names or any other names, their agents, partners, servants, representatives, salespeople, employees, independent contractors, successors and 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.
3. ISSUE PERMANENT INJUNCTIVE RELIEF, pursuant to R.C. 1345.07, enjoining Defendants from engaging in business as a supplier in any consumer transactions in the State of Ohio until all sums due under all judgments are paid in full, whether those judgments are issued by this Court or any other court against Defendants in favor of consumers who were harmed as a result of the Defendants' violations of the CSPA.
4. GRANT A JUDGMENT against Defendants, jointly and severally, in an amount sufficient to reimburse all consumers found to have been damaged by the Defendants' unfair and deceptive acts and practices, including, but not limited to, making restitution to consumers who entered into transactions with Defendants and never received the repair service or parts contracted for and never received a refund of the money they paid to the Defendants.

5. ASSESS, FINE, and IMPOSE upon the Defendants, jointly and severally, a civil penalty in the amount of Twenty-Five Thousand Dollars (\$25,000.00) for each separate and appropriate violation described herein pursuant to R.C. 1345.07(D).
6. GRANT the Ohio Attorney General his costs in bringing this action.
7. ORDER the Defendants to pay all court costs.
8. GRANT such other relief as the Court deems to be just, equitable and appropriate.

Respectfully submitted,

MICHAEL DEWINE
Attorney General of Ohio



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