

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

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

Case No:

PLAINTIFF,)

Judge:

v.)

MCNABB FUNERAL HOME, INC.)
c/o registered agent)
David D. White)
165 N High St.)
Columbus, Ohio 43203)

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

and)

RONALD MCNABB)
5486 Pine Bluff Rd.)
Columbus, Ohio 43229)

DEFENDANTS.)

JURISDICTION AND VENUE

1. Plaintiff, State of Ohio, by and through counsel, the Attorney General of Ohio, Michael DeWine, 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 (“CSPA”), R.C. 1345.01, et seq.
2. The actions of Defendants, McNabb Funeral Home, Inc. and Ronald McNabb (“Defendants”), hereinafter described, have occurred 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.

3. Jurisdiction over the subject matter lies with this Court pursuant to the CSPA, R.C. 1345.01 et seq.
4. The Court has venue to hear this case pursuant to Ohio Civ. R. 3(B)(3), as Defendants conducted activity in this county that gives rise to the claims for relief.

DEFENDANTS

5. Defendant McNabb Funeral Home, Inc. is a corporation incorporated in the State of Ohio. It previously had its primary business location at 818 East Long Street, Columbus, Ohio 43203 and a mailing address at P.O. Box 83303, Columbus, Ohio 43203.
6. Defendant Ronald McNabb is an individual and a resident of the State of Ohio, with a residence at 5486 Pine Bluff Rd, Columbus, Ohio 43229.
7. Upon information and belief, Defendant Ronald McNabb is an officer and owner of McNabb Funeral Home, Inc. and directed, supervised, approved, formulated, authorized, ratified, benefited from, and/or otherwise participated in the acts and practices of Defendant McNabb Funeral Home, Inc.
8. Defendants are “suppliers” as defined in R.C. 1345.01(C), since Defendants at all times relevant hereto were engaged in the business of effecting consumer transactions either directly or indirectly by soliciting and selling funeral goods and 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. Defendant McNabb Funeral Home, Inc. was a funeral home in Columbus, Ohio. It was previously a licensed funeral home facility with the Ohio Board of Embalmers and Funeral Directors, and held funeral home license number FH.002831.
10. Defendant Ronald McNabb served as the funeral director, and as an officer and owner, for Defendant McNabb Funeral Home, Inc. He was previously a licensed funeral director with the Ohio Board of Embalmers and Funeral Directors, and held funeral director license number DUAL.006155.
11. In or around 2013 or early 2014, Defendant McNabb Funeral Home, Inc. ceased operating and closed its location.
12. Prior to closing, Defendants sold preneed funeral contracts to consumers. A preneed funeral contract is a contract that a consumer enters into, and pays for, with a funeral home before his or her death. The funeral home promises to provide funeral services to the consumer upon the consumer's death. Preneed funeral contracts are authorized by R.C. 4717.13 et seq.
13. Pursuant to R.C. 4717.13(C), within 30 days of closing a funeral business, a funeral license holder must provide a report to the Ohio Board of Embalmers and Funeral Directors ("Funeral Board") accounting for all preneed contracts. After Defendant McNabb Funeral Home, Inc. closed, Defendants failed to provide this report to the Funeral Board.
14. Defendants did eventually provide a handwritten list of their preneed contracts to the Funeral Board. The list contains 69 consumers. The list does not provide addresses or contact information for the consumers, and some of the names are illegible. Attached as **Exhibit A.**

15. On July 21, 2014, the Funeral Board determined that there was reasonable evidence to propose the suspension or revocation of Defendants' licenses because Defendants failed to provide the report referenced in Paragraph 13, and for other violations of the Funeral Board's regulations. Prior to a final hearing being held by the Funeral Board regarding Defendants' licenses, Defendants failed to renew their licenses, and their licenses lapsed on December 31, 2014.
16. Plaintiff issued an investigatory subpoena pursuant to R.C. 1345.06 to Defendants, including by mailing the subpoena to Defendant McNabb Funeral Home Inc.'s post office box, mailing the subpoena to Defendant Ronald McNabb's residence, and hand-delivering the subpoena to Defendant Ronald McNabb's residence. The subpoena requested information regarding Defendants' preneed contracts. Defendants did not respond to the subpoena.
17. Defendants' prior location on Long Street in Columbus is currently a vacant building. Defendants also previously operated at a second address on Parsons Avenue in Columbus. The Parsons Avenue location is currently occupied by an unrelated funeral home.
18. Defendants have now been out of business for at least a year and a half, and they have not been licensed to provide funeral services by the Funeral Board since the beginning of 2015. Due to this, it is impossible for Defendants to provide funeral services to the consumers as they are obligated to under the preneed contracts.

PLAINTIFF'S CAUSE OF ACTION

Violations of the Consumer Sales Practices Act

19. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs One through Nineteen (1-18) of this Complaint.
20. Defendants have engaged in unfair and deceptive acts and practices in violation of R.C. 1345.02, in connection with their solicitation and sale of funeral services by entering into preened funeral contracts with consumers, and not refunding the contracts after Defendants' performance of the contracts became impossible.
21. Defendants' have engaged in unfair and deceptive acts and practices in violation of R.C. 1345.02 and its substantive rule A.C. 109:4-3-09, in connection with their solicitation and sale of goods and services by accepting money from consumers for goods or services and then failing to deliver the goods or services, to provide full refunds, or to provide similar goods or services.
22. The acts and practices described in Paragraph 21 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).

PRAYER FOR RELIEF

Wherefore, Plaintiff respectfully requests that this Court:

1. **ISSUE A PERMANENT INJUNCTION** enjoining Defendants McNabb Funeral Home, Inc. and Ronald McNabb, 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.

2. **ISSUE A DECLARATORY JUDGMENT** declaring that each act or practice described in Plaintiff's Cause of Action violates the CSPA, R.C. 1345.01 et seq. in the manner set forth therein.
3. **ORDER** Defendants McNabb Funeral Home, Inc. and Ronald McNabb, pursuant to R.C. 1345.07(B), jointly and severally liable to reimburse all consumers damaged by their unfair, deceptive, and/or unconscionable acts or practices, including non-economic damages.
4. **ORDER** Defendants McNabb Funeral Home, Inc. and Ronald McNabb to, pursuant to R.C. 1345.07(B), identify all consumers for whom they hold preneed contracts, and at the consumer's election, refund any remaining preneed contract or transfer the contract to a comparable funeral home.
5. **ASSESS, FINE, AND IMPOSE** upon Defendants McNabb Funeral Home, Inc. and Ronald McNabb, jointly and severally, a civil penalty of Twenty Five Thousand Dollars (\$25,000) for each appropriate violation, pursuant to R.C. 1345.07(D).
6. **GRANT** the Ohio Attorney General its costs in bringing this action.
7. **ORDER** Defendants McNabb Funeral Home, Inc. and Ronald McNabb to pay all court costs.
8. **GRANT** such other relief as the Court deems to be just, equitable, and appropriate.

Respectfully submitted,

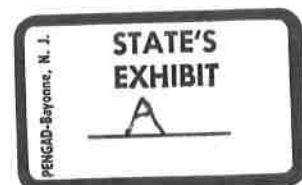
MICHAEL DEWINE
Ohio Attorney General

/s/ Jeffrey R. Loeser
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