

IN THE COURT OF COMMON PLEAS

FRANKLIN COUNTY, OHIO

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

CASE NO.

JUDGE:

Plaintiff,)

v.)

JOHN MAMMOSSER, individually)
and dba FIRST CLASS INTERIORS)
936 Meda Avenue)
Lancaster, OH. 43130)

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

Defendant.)

JURISDICTION AND VENUE

1. Plaintiff, State of Ohio, by and through Attorney General 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, R.C. 1345.01 et seq.
2. The actions of Defendant John Mammosser, hereinafter described, have occurred in Franklin County and other counties in the State of Ohio, and as set forth below are in violation of the Consumer Sales Practices Act, R.C. 1345.01 et seq. (“CSPA”), its Substantive Rules, and the Home Solicitation Sales Act (“HSSA”), R.C. 1345.21 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(B)(3) in that some of the transactions complained of herein, and out of which this action arose, occurred in Franklin County, Ohio.

DEFENDANT

5. Defendant John Mammosser is a natural person residing at 201 N. Oak Street, Baltimore, Ohio 43130.
6. At all times relevant to this action, Defendant John Mammosser was the sole owner and operator of First Class Interiors, a business located at 936 Meda Avenue, Lancaster, Ohio 43130.
7. Defendant's business, First Class Interiors, is not registered with the Ohio Secretary of State.
8. Defendant has also conducted business under the names Precise Pools and Smilemaker Hardwoods, neither of which are registered with the Ohio Secretary of State.
9. Defendant is a "supplier" as that term is defined in R.C. 1345.01(C), as he engaged in the business of effecting "consumer transactions" by soliciting consumers either directly or indirectly for home remodeling and repair goods and services for a fee, within the meaning of R.C. 1345.01(A).
10. Defendant, as described below, was at all times relevant herein, engaged in "home solicitation sales" as that term is defined in HSSA, R.C. 1345.21(A), as he engaged in personal solicitations at the residences of consumers, including solicitations in response to or following invitations by consumers.

STATEMENT OF FACTS

11. Defendant accepted payment from consumers for the purchase of home improvement goods and services, such as materials and installation services for kitchens, bathrooms, and flooring, and failed to deliver some of those goods and services within eight weeks.
12. Despite numerous requests from consumers, Defendant has refused to provide refunds.
13. After receiving payment, Defendant would often begin to work in a consumer's home but fail to complete the contracted job.
14. Defendant provided shoddy and substandard home repair services to consumers and then failed to correct such services.
15. At the time of the transactions, Defendant had three unsatisfied judgments in Franklin County arising out of previous consumer transactions.
16. At the time of the transactions, Defendant failed to provide consumers with proper notice of cancellation forms describing the consumers' right to cancel the transactions.

PLAINTIFF'S FIRST CAUSE OF ACTION:

VIOLATIONS OF THE CONSUMER SALES PRACTICES ACT

COUNT ONE
FAILURE TO DELIVER

17. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs One through Sixteen (1-16) of this Complaint.
18. Defendant has 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 goods and services, and then permitting eight-weeks to elapse

without making shipment or delivery of the goods or 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 goods or services of equal or greater value as a good faith substitute.

COUNT TWO
SHODDY AND SUBSTANDARD WORK

19. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs One through Sixteen (1-16) of this Complaint.
20. Defendant has committed unfair or deceptive acts or practices in violation of the CSPA, R.C. 1345.02(A), by performing shoddy and substandard work, and then failing to correct such work.
21. Such acts or practices have been previously determined by Ohio courts to violate the CSPA, R.C. 1345.01 et seq. Defendant committed said violations after such decisions were available for public inspection pursuant to R.C. 1345.05(A)(3).

COUNT THREE
FAILURE TO REGISTER OR REPORT FICTICIOUS BUSINESS NAMES

22. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs One through Sixteen (1-16) of this Complaint.
23. Defendant committed unfair or deceptive acts or practices in violation of the CSPA, R.C. 1345.02(A), by failing to register or report his use of fictitious business names to the Ohio Secretary of State, as required under R.C. 1329.01.
24. Such acts or practices have been previously determined by Ohio courts to violate the CSPA, R.C. 1345.01 et seq. Defendant committed said violations after such decisions were available for public inspection pursuant to R.C. 1345.05(A)(3).

COUNT FOUR
UNSATISFIED JUDGMENTS

25. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs One through Sixteen (1-16) of this Complaint.
26. Defendant committed unfair or deceptive acts or practices in violation of the CSPA, R.C. 1345.02(A), by engaging in consumer transactions while having unsatisfied judgments and legal obligations owed to three consumers arising out of previous consumer transactions.
27. Such acts or practices have been previously determined by Ohio courts to violate the CSPA, R.C. 1345.01 et seq. Defendant 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:

VIOLATIONS OF THE HOME SOLICITATION SALES ACT

COUNT ONE
FAILURE TO PROVIDE PROPER NOTICE OF THREE DAY RIGHT OF RECISSION

28. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs One through Sixteen (1-16) of this Complaint.
29. Defendant violated the HSSA, R.C. 1345.23 and R.C. 1345.02(A), by failing to give a proper notice to consumers of their right to cancel their contract by a specific date.
30. Such acts or practices have been previously determined by Ohio courts to violate the CSPA, R.C. 1345.01 et seq. Defendant 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 grant the following relief:

- A. ISSUE A DECLARATORY JUDGMENT declaring that the acts or practices described herein violate the CSPA, its Substantive Rules, and the HSSA in the manner set forth in this Complaint.
- B. ISSUE PERMANENT INJUNCTIVE RELIEF, pursuant to R.C. 1345.07, enjoining Defendant under his own name or any other name, and all persons acting on behalf of Defendant directly or indirectly, through any corporate or private device, partnership or association, jointly and severally, from engaging in the acts or practices of which Plaintiff complains and from further violating the CSPA, R.C. 1345.01 et seq., its Substantive Rules, and the HSSA, R.C. 1345.02 et seq.
- C. ISSUE PERMANENT INJUNCTIVE RELIEF enjoining Defendant from acting as a “supplier” as that term is defined in R.C. 1345.01(C) by engaging in any consumer transactions in the State of Ohio until the final ordered restitution of this matter is satisfied in its entirety.
- D. ORDER Defendant, pursuant to R.C. 1345.07(B), to pay restitution to all consumers damaged by Defendant’s unlawful acts or practices.
- E. ASSESS, FINE AND IMPOSE upon Defendant a civil penalty of Twenty-Five Thousand Dollars (\$25,000.00) for each separate and appropriate violation described herein, pursuant to R.C. 1345.07(D).
- F. GRANT the Ohio Attorney General his costs in bringing this action.
- G. ORDER Defendant to pay all court costs.
- H. GRANT such other relief as the Court deems to be just, equitable and appropriate.

Respectfully submitted,

MICHAEL DEWINE
Attorney General

/s/ Hallie Saferin

HALLIE C. SAFERIN (0093467)
Assistant Attorney General
Consumer Protection Section
30 East Broad Street, 14th Floor
Columbus, Ohio 43215
Phone: (614) 466-9529
Facsimile: (877) 384-0848
hallie.saferin@ohioattorneygeneral.gov

Counsel for Plaintiff State of Ohio