IN THE COURT OF COMMON PLEAS
LORAIN COUNTY, OHIO

STATE OF OHIO, ex rel. **ATTORNEY GENERAL** **MICHAEL DEWINE** **615 W. SUPERIOR AVENUE 11TH FL** **CLEVELAND, OHIO 44113** **Plaintiff,** **v.** **THOMAS CARR dba MY FENCE PROJECT** **171 FEDERAL STREET NE** **WARREN, OHIO 44483** **and** **JUANITA CARR dba MY FENCE PROJECT** **171 FEDERAL STREET NE** **WARREN, OHIO 44483** **Defendants.**	))	**CASE NO.** **JUDGE** **COMPLAINT FOR DECLARATORY JUDGMENT, INJUNCTIVE RELIEF, RESTITUTION AND CIVIL PENALTIES**

JURISDICTION AND VENUE

1. Plaintiff, State of Ohio, by and through its 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 Consumer Sales Practices Act, R.C. 1345.01 et seq.

2. The actions of Defendants Thomas Carr and Juanita Carr ("Defendants") have occurred in the State of Ohio and Lorain County and violate the Consumer Sales Practices Act, R.C. 1345.01 et seq.

3. This Court has jurisdiction over the subject matter of this action pursuant to R.C. 1345.04 of the Consumer Sales Practices Act.

4. This Court has venue to hear this case pursuant to Civ. R. 3(B)(3), in that some of the transactions complained of herein, and out of which this action arises, occurred in Lorain County, Ohio.

DEFENDANTS

3. Defendant Thomas Carr is an individual residing at 171 Federal Street NE, Warren, OH 44483 and doing business as My Fence Project.

4. Defendant Juanita Carr is an individual residing at 171 Federal Street NE, Warren, OH 44483 and doing business as My Fence Project.

5. Defendants are "suppliers" as that term is defined in R.C. 1345.01(C) as Defendants, at all times relevant herein, engaged in the business of effecting "consumer transactions" by selling fence supplies and/or installation services as well as other home improvement services for "individuals" from Lorain County, other counties in the State of Ohio, for purposes that were primarily personal, family or household within the meaning specified in R.C. 1345.01(A) and (D).

STATEMENT OF FACTS

6. Defendants were at all relevant times engaged in the business of selling fence supplies and/or installation services as well as other home improvement services.

7. Defendants entered into a consumer transaction with Adam Ferguson for the installation of a concrete floor in Mr. Ferguson's basement. Mr. Ferguson agreed to pay $2,100 for the concrete floor installation and paid an initial deposit of $700. After numerous delays and promises by Defendants to perform the job, Defendants did not perform the job and failed to refund any money to Mr. Ferguson.

8. Defendants entered into two separate consumer transactions with Thomas Merchant for the installation of fences on his property. Mr. Merchant paid in full for both transactions. After the first fence was installed improperly and in an unworkmanlike manner, Mr. Merchant cancelled the second transaction and requested a refund. Defendants have refused to refund any money to Mr. Merchant.

9. Defendants entered into a consumer transaction with Chance Lowe for the installation of a fence at his mother's home. The job was paid for in full in the amount $1,500. Defendants have never performed any work and have not provided a refund.

PLAINTIFF'S CAUSES OF ACTION

COUNT ONE

10. Plaintiff restates, realleges, and incorporates the preceding paragraphs as if fully restated herein.

11. Defendants have committed unfair or deceptive acts or practices in violation of the Failure to Deliver Rule, Ohio Admin. Code 109:4-3-09(A)(1) and the Consumer Sales Practices Act, R.C. 1345.02(A), by accepting down payments from consumers for home improvement goods and/or services, then failing to deliver the goods and/or services purchased or to return the down payments to consumers.

12. The act of practice described in the preceding paragraph has been previously determined by Ohio courts to violate the Consumer Sales Practices Act, R.C. 1345.01 et seq.

13. Defendants committed said violations after such decisions were available for public inspection pursuant to R.C. 1345.05(A)(3).

COUNT TWO

14. Plaintiff restates, realleges, and incorporates the preceding paragraphs as if fully restated herein.

15. Defendants have committed unfair or deceptive acts or practices in violation of the Consumer Sales Practice Act, R.C. 1345.02(A), by performing shoddy and unworkmanlike services in connection with a consumer transaction and then failing to correct such work.

16. The act or practice of performing repair services in a shoddy and unworkmanlike manner in connection with a consumer transaction and then failing to correct such work has been previously determined by Ohio courts to violate the Consumer Sales Practices Act, R.C. 1345.01 et seq.

17. Defendants committed said violations after such decisions were available for public inspection pursuant to R.C. 1345.05(A)(3).

COUNT THREE

18. Plaintiff restates, realleges, and incorporates the preceding paragraphs as if fully restated herein.

19. Defendants have committed unfair or deceptive acts or practices in violation of the Deposits Rule, Ohio Admin. Code 109:4-3-07(B), and the Consumer Sales Practices Act, R.C. 1345.02(A), by accepting a deposit from consumers in connection with home

improvement services to be performed and failing to provide a dated receipt stating a description of the goods, the cash selling price, whether the deposit was refundable and under what conditions, or whether there were any additional costs.

20. The act or practice of accepting a deposit from consumers in connection with home improvement services to be performed and failing to provide a dated receipt stating a description of the goods, the cash selling price, whether the deposit was refundable and under what conditions, or whether there were any additional costs has been previously determined by Ohio courts to violate the Consumer Sales Practices Act, R.C. 1345.01 et seq.

21. 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 requests that this Court:

1) ISSUE a permanent injunction, pursuant to R.C. 1345.07(A)(2), enjoining Defendants, their agents, servants, representatives, salesmen, employees, successors or assigns, and all persons acting in concert and participation with them, directly or indirectly, from engaging in the acts and practices of which Plaintiff complains.

2) GRANT A JUDGMENT against Defendants Thomas Carr and Juanita Carr, for joint and several liability, 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 contracts with Defendants and against whom the acts described in this complaint were committed.

3) ISSUE a declaratory judgment, pursuant to R.C 1345.07(A)(1), declaring that each and every act or practice complained of herein violates the Consumer Sales Practices Act in the manner set forth in this Complaint.

4) ASSESS, FINE and IMPOSE upon each Defendant, pursuant to R.C. 1345.07, a civil penalty of Twenty Five Thousand Dollars ($25,000.00) for each separate and appropriate violation described herein.

5) ENJOIN Defendants from engaging as a supplier in any consumer transaction in the State of Ohio until such time as they have satisfied all monetary obligations due hereunder, as well as any unpaid judgments arising out of consumer transactions.

6) GRANT Plaintiff all costs incurred in bringing this action.

7) ORDER Defendants to pay all court costs.

8) GRANT such other relief as the Court deems to be just, equitable, and appropriate.

Respectfully submitted,

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Ohio Attorney General

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