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COMMON PLEAS DIVISION

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**PAVAN PARIKH
Clerk of Courts
Hamilton County, Ohio
CONFIRMATION 1266073**

**STATE OF OHIO EX REL OHIO
ATTORNEY GENERAL DAVE
YO
vs.
TERRY D HAYNES**

A 2204687

**FILING TYPE: INITIAL FILING (IN COUNTY) WITH NO JURY
DEMAND**

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

STATE OF OHIO ex rel.)
ATTORNEY GENERAL)
DAVE YOST)
411 Vine Street, 17th Fl.)
Cincinnati, Ohio 45202)

Case No:

Judge:

Plaintiff,

v.

TERRY D. HAYNES, individually and)
d/b/a Queen City Appliance, A Plus)
Appliance Repair, and Certified)
Appliance Repair)
6206 Bridgetown Rd.)
Cincinnati, Ohio 45248)

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

and

AMY N. GARCIA, individually and)
d/b/a Queen City Appliance, A Plus)
Appliance Repair, and Certified)
Appliance Repair)
6206 Bridgetown Rd.)
Cincinnati, Ohio 45248)

Defendants.)

JURISDICTION AND VENUE

1. Plaintiff, State of Ohio, by and through its 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 under the authority vested in him by R.C. 1345.01 *et seq.*

2. The actions of Terry D. Haynes and Amy N. Garcia (“Defendants”), hereinafter described, have occurred in Hamilton and other counties 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.*, and its Substantive Rules, Ohio Administrative Code (“O.A.C.”) 109:4-3-01 *et seq.*
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(C)(1) and (3), in that Hamilton County is where Defendants reside and where Defendants conducted some of the transactions complained of herein.

DEFENDANTS

5. Defendant Terry D. Haynes is a natural person residing at 6206 Bridgetown Rd., Cincinnati, Ohio 45248.
6. Defendant Amy N. Garcia is a natural person residing at 6206 Bridgetown Rd., Cincinnati, Ohio 45248.
7. Defendants conducted business using the fictitious business names Queen City Appliance, A Plus Appliance Repair, and Certified Appliance Repair, which Defendants failed to register with the Ohio Secretary of State.

8. Defendants, at all times relevant to this action, engaged in the business of soliciting, offering for sale, selling, or repairing home appliance goods or services to consumers in Hamilton County and in other counties in the state of Ohio.
9. Defendants are “supplier[s],” as that term is defined in R.C. 1345.01(C), as they engaged in the business of effecting “consumer transactions” by soliciting consumers either directly or indirectly for home appliance goods and services for a fee, within the meaning of R.C. 1345.01(A).

STATEMENT OF FACTS

10. Defendants engaged in the business of providing home appliance goods and services to consumers, and failed to deliver some of those goods and services within eight weeks.
11. Defendants have refused to refund consumers’ deposits or payments despite consumers’ requests for refunds.
12. After receiving payment, Defendants sometimes began work, but then failed to complete the work.
13. Defendants provided shoddy and substandard appliance repair services to consumers and then failed to correct such services.
14. Defendants represented to consumers that they would provide the ordered goods and services within an estimated time and then failed to provide such goods and services in the time promised.
15. In November 2019, Hamilton County Common Pleas Court entered a Judgment against Defendant Haynes for violations of the CSPA, including a declaratory judgment, injunctive relief, consumer damages, and a civil penalty payable to the Attorney General’s Office.

(State of Ohio ex rel., Attorney General of Ohio Dave Yost v. Terry Haynes, Hamilton Co. A1804658.)

16. Since the entry of that Judgment, Defendant Haynes has engaged in consumer transactions while failing to pay a judgment that resulted from actions arising out of consumer transactions.

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 goods and services and then permitting eight weeks to elapse without making shipment or delivery of the goods and services ordered, making a full refund, advising the consumers 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- SHODDY AND SUBSTANDARD WORK

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

COUNT III – FAILURE TO REGISTER WITH THE OHIO SECRETARY OF STATE

22. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraph 1-21 of this Complaint.

23. Defendants committed unfair or deceptive acts or practices in violation of R.C. 1345.02(A) and 1329.01 by failing to register with or report the trade names Queen City Appliance, A Plus Appliance Repair, and Certified Appliance Repair to the Ohio Secretary of State.

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 IV – AGAINST DEFENDANT HAYNES ONLY – ENGAGING IN CONSUMER TRANSACTIONS AFTER FAILING TO PAY A JUDGMENT

25. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraph 1-24 of this Complaint.

26. Defendant Haynes committed unfair or deceptive acts and practices in violation of the CSPA, R.C. 1345.02(A), by engaging in consumer transactions while having an unsatisfied judgment against the Defendant arising from consumer transactions.

27. The acts or practices described above 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 that each act or practice complained of herein violates the CSPA, R.C. 1345.01 *et seq.*, its Substantive Rules OAC 109:4-3-01 *et seq.*, in the manner set forth in the Complaint.
- B. ISSUE A PERMANENT INJUNCTION enjoining the Defendants, their agents, employees, successors or assigns, and all persons acting in concert and participation with them, directly or indirectly, through any corporate device, partnership, or other association, under these or any other names, from engaging in the acts and practices of which Plaintiff complains and from further violating the CSPA, R.C. 1345.01 *et seq.*, its Substantive Rules.
- C. ORDER Defendants, pursuant to R.C. 1345.07(B), to pay actual damages to all consumers injured by the conduct of the Defendants as set forth in this Complaint.
- D. ASSESS, FINE and IMPOSE upon Defendants a civil penalty of up to \$25,000.00 for each separate and appropriate violation of the CSPA described herein pursuant to R.C. 1345.07(D).
- E. ISSUE AN INJUNCTION prohibiting Defendants from engaging in business as a Supplier in any consumer transactions in this state until such time as Defendants have satisfied all monetary obligations ordered pursuant to this litigation, the prior judgment against Defendant Haynes in State of Ohio ex rel., Attorney General of Ohio Dave Yost v. Terry Haynes, Hamilton Co. A1804658, and any other judgments.

- F. GRANT Plaintiff its costs incurred in bringing this action.
- G. ORDER Defendants to pay all court costs associated with this matter.
- H. GRANT such other relief as the court deems to be just, equitable, and appropriate.

Respectfully submitted,

DAVE YOST
Attorney General

/s/ Lisa M. Treleven
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