

IN THE COURT OF COMMON PLEAS  
FRANKLIN COUNTY, OHIO

STATE OF OHIO, ex rel.	)	
MICHAEL DEWINE	)	<b>CASE NO.</b>
Attorney General of Ohio	)	
30 East Broad Street	)	
14 <sup>th</sup> Floor	)	<b>JUDGE</b>
Columbus, Ohio 43215	)	
	)	
Plaintiff,	)	<b><u>COMPLAINT AND</u></b>
	)	<b><u>REQUEST FOR INJUNCTIVE AND</u></b>
v.	)	<b><u>DECLARATORY RELIEF,</u></b>
	)	<b><u>CONSUMER RESTITUTION, AND</u></b>
SHAWN HASTINGS	)	<b><u>CIVIL PENALTIES</u></b>
7037 Harrisburg London Road	)	
Orient, OH 43146	)	
	)	
and	)	
	)	
HASTINGS CONSTRUCTION CO,	)	
LLC	)	
7037 Harrisburg London Road	)	
Orient, OH 43146	)	
	)	
Defendants.	)	

**JURISDICTION**

1. Plaintiff, State of Ohio, by and through the Attorney General of Ohio, Michael DeWine, having reasonable cause to believe that violations of Ohio's consumer 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 Ohio Revised Code (R.C.) R.C. 1345.07.
2. The actions of Defendants, Shawn Hastings and Hastings Construction, as described below, have occurred in Franklin County and, as set forth below, are in violation of the Ohio Consumer Sales Practices Act, R.C. 1345.01 et seq. and Substantive Rules OAC 109:4-3-01 et seq.
3. Defendants, as described below, are "suppliers" as that term is defined in R.C. 1345.01(C), as the Defendants were, at all times relevant herein, engaged in the business

of effecting consumer transactions by soliciting and selling home improvement services to individuals in several counties throughout Ohio, including Franklin County, for purposes that were primarily personal, family or household within the meaning specified in R.C. 1345.01(A) and (D).

4. Defendants, as described below, engaged in “home solicitation sales” as that term is defined in R.C. 1345.21(A), as the Defendants were, at all times relevant herein, engaged in personal solicitation at the residence of the buyer, including solicitations in response to or following an invitation by the buyer.
5. Jurisdiction over the subject matter of this action lies with this Court pursuant to R.C. 1345.04 of the Ohio Consumer Sales Practices Act.
6. This Court has venue to hear this case pursuant to Ohio Civ. R. 3 (B)(2), in that Franklin County is the location in which the Defendants have their principal place of business.

#### **THE DEFENDANTS**

7. Defendant, Shawn Hastings, is an individual who is last known to operate his business at 7037 Harrisburg London Road, Orient, OH 43146.
8. Defendant Hastings registered Defendant Hastings Construction Co, LLC as a domestic limited liability company on September 3, 2009.
9. Defendant Hastings directed, supervised, approved, formulated, authorized, ratified, benefited from and/or otherwise participated in the day to day activities of the business entities known as Defendant Hastings Construction.
10. Defendant Hastings operated, dominated, controlled, and directed the business activities of Defendant Hastings Construction, causing, personally participating in, and/or ratifying the acts and practices of Defendant Hastings Construction as described in this Complaint.

**STATEMENT OF FACTS**

11. Defendants are now, and have been at all times relevant to this action, engaged in the selling of consumer goods or services, specifically home improvement services.
12. At the time of the transaction, Defendants met at the consumers' homes to provide an estimate for the repairs or services needed in consumers' residential homes.
13. At the time of the transactions, Defendants failed to provide consumers with a written form which included language explaining the consumer's right to a written estimate.
14. Defendants often failed to complete the work, and also performed work in a shoddy or unworkmanlike manner.
15. In some instances, Defendants promised that the materials and labor were covered by a warranty, then failed to provide the consumer with a copy of any document which explained the terms of the warranty.
16. Consumers tried to contact Defendants to complete the work, to correct the problems with their repairs or services and/or to obtain a refund, or to act upon the terms of the warranty, but Defendants routinely failed to return the consumers' phone calls.
17. All facts alleged above have routinely occurred in the two years prior to this lawsuit.

**PLAINTIFF'S FIRST CAUSE OF ACTION:**  
**VIOLATIONS OF THE CONSUMER SALES PRACTICES ACT**

**COUNT ONE**  
**FALSE REPRESENTATION OF WARRANTY**

18. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in Paragraphs one through seventeen (1-17) of this Complaint.
19. Defendants committed unfair or deceptive acts or practices in violation of R.C. 1345.02(B)(10) by representing that a consumer transaction involves or does not involve a warranty, a disclaimer of warranties or other right, remedies, or obligations if the representation is false.

20. The acts and practices described in the paragraph above have been previously determined by Ohio Courts to violate the Consumer Sales Practices Act, 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 TWO**  
**FAILURE TO PROVIDE ESTIMATE CHOICE LANGUAGE**

21. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in Paragraphs one through seventeen (1-17) of this Complaint.
22. Defendants committed unfair or deceptive acts or practices in violation of R.C. 1345.02(A) and Ohio Adm. Code 109:4-3-05(A) by failing to provide the consumer with a written estimate choice language form at the time of the initial face to face contact or prior to the commencement of any repair or service, and by failing to provide the consumer with a form that indicated the reasonably anticipated completion date.
23. Defendants committed unfair and deceptive acts or practices in violation of R.C. 1345.02(A) and Ohio Adm. Code 109:4-3-05(D) by failing to provide the consumer with a list of parts or materials, the amount charged for labor, and the identity of the individuals performing the repair or service.
24. The acts and practices described in the paragraphs above have been previously determined by Ohio Courts to violate the Consumer Sales Practices Act, R.C. 1345.01 et seq. Defendants committed said violations after such decisions were available for public inspection

**COUNT THREE**  
**SHODDY OR UNWORKMANLIKE MANNER**

25. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in Paragraphs one through seventeen (1-17) of this Complaint.
26. Defendants committed unfair or deceptive acts or practices in violation of R.C. 1345.02(A) by performing home repair or improvement services in an incomplete, shoddy or unworkmanlike manner.
27. The acts and practices described in the paragraph above have been previously determined by Ohio Courts to violate the Consumer Sales Practices Act, R.C. 1345.01 et seq. Defendants committed said violations after such decisions were available for public inspection.

**COUNT FOUR**  
**FAILURE TO DELIVER VIOLATION**

28. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in Paragraphs one through seventeen (1-17) of this Complaint.
29. Defendants committed unfair and deceptive acts and practices in violation of R.C. 1345.02 and Ohio Adm. Code 109:4-3-09(A)(2) by accepting money from consumers for home improvement services and permitting eight weeks to elapse without delivering the contracted goods or making a full refund.
30. The acts and practices described in the paragraph above have been previously determined by Ohio courts to violate the Consumer Sales Practices Act, R.C. 1345.01 et seq. Defendants committed said violations after such decisions were available for public inspection.

**SECOND CAUSE OF ACTION:**  
**VIOLATIONS OF THE HOME SOLICITATION SALES ACT**

**COUNT I**  
**FAILURE TO PROVIDE PROPER NOTICE OF THREE DAY RIGHT OF**  
**RESCISSION**

31. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs one through seventeen (1-17) of this Complaint.
32. Defendants have violated the Home Solicitation Sales Act, R.C. 1345.23, by failing to give proper notice to consumers of their right to cancel their contract by a specific date.
33. The act or practice described in paragraph thirty-two (32) has been previously determined by Ohio courts to violate the Consumer Sales Practices Act, R.C. 1345.01 et seq. Defendants committed said violations after such decisions were available for public inspection.

**THIRD CAUSE OF ACTION:**  
**VIOLATIONS OF MAGNUSON-MOSS WARRANTY ACT**

**COUNT I**  
**BREACH OF EXPRESS WARRANTY**

34. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs one through seventeen (1-17) of this Complaint.
35. Defendants have sold consumer products, as that term is defined in 15 U.S.C. §2301(1) of the Magnuson-Moss Warranty Act, to consumers in Ohio.
36. Defendants are a “warrantor” as that term is defined in 15 U.S.C. §2301(5), of the Magnuson-Moss Warranty Act.
37. Ohio consumers have routinely afforded Defendants reasonable opportunities to cure their failure to comply with their warranties, which Defendants have refused in violation of 15 U.S.C. §2310(e),
38. Defendants’ violations of the Magnuson-Moss Act through the acts or practices described

in paragraph thirty-seven (37) have previously been determined by Ohio courts to violate the Consumer Sales Practices Act, R.C. 1345.01 et seq. Defendants committed said violations after such decisions were available for public inspection.

**COUNT II**  
**FAILURE TO COMPLY WITH MAGNUSON-MOSS WARRANTY ACT**  
**DISCLOSURE RULES**

39. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs one through seventeen (1-17) of this Complaint.
40. Defendants have failed to make the specific terms of their written warranty available to Ohio consumers or prospective Ohio consumers, prior to the sale of the product in violation of the Magnuson-Moss Warranty Act, 15 U.S.C. §2302(b).
41. Defendants have failed to designate their warranty as “Full” or “Limited” in violation of the Magnuson-Moss Warranty Act, 15 U.S.C. §2303(a).
42. Defendants’ violations of the Magnuson-Moss Warranty Act, through the acts or practices described in paragraphs forty (40) and forty-one (41), have previously been determined by Ohio courts to violate the Consumer Sales Practices Act, R.C. 1345.01 et seq. Defendants committed said violations after such decisions were available for public inspection.

**COUNT III**  
**FAILURE TO REMEDY A CONSUMER PRODUCT WITHIN A REASONABLE TIME**  
**AND WITHOUT CHARGE**

43. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs one through seventeen (1-17) of this Complaint.
44. Defendants have failed to remedy products sold to Ohio consumers within a reasonable time and without charge, in the case of a defect, malfunction, or failure to conform with a written warranty, in violation of the Magnuson-Moss Warranty Act, 15 U.S.C. §2304(a).
45. Defendants’ violations of the Magnuson-Moss Warranty Act, through the acts or

practices described in paragraph forty-four (44), have previously been determined by Ohio courts to violate the Consumer Sales Practices Act, R.C. 1345.01 et seq. Defendants committed said violations after such decisions were available for public inspection.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff respectfully requests this Court to:

- A. ISSUE a permanent injunction enjoining Defendants, their agents, servants, representatives, salesmen, employees, successors, or assigns, and all persons acting in concert and participation with them from further violating the Consumer Sales Practices Act, R.C. 1345.01 et seq., the substantive rules of the Ohio Administrative Code, the Home Solicitation Sales Act, and the Magnuson Moss Warranty Act.
- B. ISSUE a declaratory judgment declaring that each act or practice described in Plaintiff's Complaint violates the Consumer Sales Practices Act, the Home Solicitations Sales Act, and the Magnuson Moss Warranty Act as set forth herein.
- C. ASSESS, FINE, AND IMPOSE upon Defendants, a civil penalty of Twenty Five Thousand Dollars (\$25,000.00) for each appropriate violation described herein, pursuant to R.C. 1345.07(D), for which Defendants shall be jointly and severally liable.
- D. AWARD a monetary judgment against Defendants in an amount sufficient to reimburse all consumers found to have been damaged by the Defendants' unfair and deceptive acts and practices.
- E. ISSUE an Injunction prohibiting Defendants from engaging in business as a supplier in any consumer transaction in the State of Ohio until such time as they have satisfied all monetary obligations ordered by this Court, and any other Court in Ohio in connection with a consumer transaction.
- F. GRANT the Ohio Attorney General his costs in bringing this action.



- G. GRANT such other relief as the Court deems to be just, equitable, and appropriate.
- H. ORDER Defendants to jointly and severally pay all court costs.

Respectfully submitted,

MICHAEL DEWINE  
Ohio Attorney General

/s/ Kate E. Christobek

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