

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)

PLAINTIFF,)

V.)

THE POOL MAN INC.)
c/o John Gueli Jr.)
Statutory Agent)
5471 Sweet Gale Ct.)
Canal Winchester, OH 43110)

and)

JOHN GUELI JR.)
5471 Sweet Gale Ct.)
Canal Winchester, OH 43110)

DEFENDANTS.)

CASE NO.

JUDGE

COMPLAINT FOR
DECLARATORY JUDGMENT,
INJUNCTIVE RELIEF,
RESTITUTION, AND CIVIL
PENALTIES

JURISDICTION

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 Consumer Sales Practices Act, R.C. 1345.01 et seq. (“CSPA”).

2. The actions of Defendants, hereinafter described, have occurred in the State of Ohio and Franklin County, and, as set forth below, are in violation of the CSPA, R.C. 1345.01 et seq. and its Substantive Rules, 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(B)(1)-(3), in that the Defendant resides in Franklin County, Ohio, and the Defendant conducted some of the transactions complained of herein, out of which this action arose, in Franklin County, Ohio.

DEFENDANTS

5. Defendant The Pool Man is an Ohio corporation with its corporate offices formerly located, at all times relevant herein, at 4106 East Main Street, Columbus, Ohio 43213.
6. Defendant, John Gueli Jr. is a natural person who resides in Franklin County at 5471 Sweet Gale Ct., Canal Winchester, OH 43110.
7. Defendant Gueli, at all times relevant herein, possessed the authority to set policies and procedures for Defendant The Pool Man, has dominated, controlled, and directed the business activities and sales conduct of Defendant The Pool Man, and has committed, allowed, caused, directed, participated in, and/or ratified the unlawful acts and practices committed by Defendant The Pool Man.
8. Defendants, as described below, are “suppliers”, as that term is defined in R.C. 1345.01(C) as Defendants were, at all times relevant herein, engaged in the business of offering construction, assembly, installation, and/or repair services of outdoor swimming pools to individuals in Franklin County and elsewhere in the State of Ohio for purposes

that were primarily personal, family, or household within the meaning of R.C. 1345.01(A) and (D).

STATEMENT OF FACTS

9. Defendants at all times relevant to this action were engaged in the business of soliciting consumers for the purchase, construction, assembly, installation, and/or repair of outdoor swimming pools and related products in the State of Ohio, including in Franklin County.
10. Defendants entered into and executed contracts to provide pool construction, assembly, installation and/or repair services to consumers in the State of Ohio.
11. Defendants accepted payments for pool construction, assembly, installation, and/or repair services and failed to provide the services within eight weeks of the contract date.
12. Defendants accepted payments for pool construction, assembly, installation, and/or repair services and failed to refund the down payments for work that was not performed within eight weeks of the contract date.
13. Defendants performed pool repair services and repairs in a shoddy, substandard and unworkmanlike manner.
14. Defendants' failure to perform contracted pool services in the time prescribed and/or in a proper manner has resulted in harm to consumers and in many instances required that consumers pay additional money to have the Defendants' work corrected and/or to complete the construction began by Defendants.

PLAINTIFF'S CAUSE OF ACTION
UNFAIR AND DECEPTIVE ACTS AND PRACTICES
COUNT I
FAILURE TO DELIVER OR PROVIDE A REFUND

15. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in Paragraphs One through Fourteen (1-14) of this Complaint.

16. Defendants have committed unfair or deceptive acts or practices in violation of the CSPA, R.C. 1345.02(A) and the Ohio Adm. Code O.A.C. 109:4-3-09(A)(2) by accepting payment from consumers for goods or services and then permitting eight weeks to elapse without making shipment or delivery of the goods or services ordered or failing to refund payments for goods not delivered or work not performed.

COUNT TWO
SHODDY WORKMANSHIP

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. Defendants have committed unfair and deceptive acts or practices in violation of the CSPA, R.C. 1345.02(A) by performing pool construction, assembly, installation and/or repair services in a shoddy, substandard, and unworkmanlike manner.
19. Such acts or practices 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 prays that this Court:

1. ISSUE PERMANENT INJUNCTIVE RELIEF enjoining Defendants, jointly and individually, from acting as suppliers and soliciting consumer transactions in the State of Ohio, and from the sale or transfer of any business or personal assets, other than by an order of this Court, until such time as all judgments arising out of consumer transactions, including any judgment resulting from this action, are satisfied.
2. ISSUE PERMANENT INJUNCTIVE RELIEF enjoining Defendants, jointly and individually, their agents, servants, representatives, salespeople, employees, successors

and 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. and its Substantive Rules.

3. ISSUE A DECLARATORY JUDGMENT declaring that each act or practice described in Plaintiff's Complaint violates the CSPA in the manner set forth in this Complaint.
4. ORDER Defendants jointly and severally liable for reimbursement to all consumers found to have been damaged by the Defendants' unfair and deceptive acts and practices for the full amount of any damages pursuant to R.C. 1345.07(B).
5. ASSESS, FINE AND IMPOSE upon Defendants, jointly and severally, 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).
6. ORDER, as a means of insuring compliance with this Court's Order and with the consumer protection laws of Ohio, Defendants to maintain in their possession and control for a period of five (5) years all business records relating to Defendants' solicitation and sale of pool construction, assembly, installation and/or repair services in Ohio and to permit the Ohio Attorney General or his representative, upon reasonable twenty-four (24) hour notice, to inspect and/or copy any and all records.
7. ORDER Defendants, jointly and severally, to reimburse the Ohio Attorney General for his costs in bringing this action.
8. ORDER Defendants, jointly and severally, to pay all court costs
9. GRANT such other relief as the Court deems to be just, equitable and appropriate.

Respectfully submitted,

Michael DeWine
Attorney General

/s/ Teresa A. Heffernan

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