

IN THE COURT OF COMMON PLEAS, FRANKLIN COUNTY, OHIO  
CIVIL DIVISION

STATE OF OHIO, ex rel.	)	CASE NO. 13 CV 002866
MICHAEL DEWINE	)	
ATTORNEY GENERAL OF OHIO,	)	JUDGE C. SCHNEIDER
	)	
PLAINTIFF,	)	MAGISTRATE E. WATTERS
	)	
v.	)	<b><u>FINAL APPEALABLE ORDER</u></b>
	)	
COST SAVER HOME IMPROVEMENTS,	)	
LLC, et al.,	)	
	)	
DEFENDANTS.	)	

**JUDGMENT ENTRY**

Plaintiff the State of Ohio ex rel. Michael DeWine Attorney General of Ohio filed its complaint against Defendants Cost Saver Home Improvements, LLC, ("Cost Saver") and Everett Gagnon for alleged violations of the Consumers Sales Practices Act and the Home Sales Solicitation Act on March 15, 2013. The Court found that all necessary parties were served with summons according to law and are properly before the Court. Defendant Cost Saver Home Improvements, LLC failed to answer or otherwise defend the State's action within the time period required by Civ. R. 12(A). Defendant Everett Gagnon appeared *pro se* and filed answer to the State's complaint. On August 8, 2013, the Court granted default judgment against Defendant Cost Saver Home Improvements, LLC. Pursuant to Civil Rule 54(C), "when a default judgment is rendered against a party, the only relief that the party seeking the default judgment may obtain is relief that is requested in the pleadings or relief that is 'in kind' to the relief requested in the pleadings." *State ex rel. DeWine v. A & L Salvage*, 7th Dist. No. 11 CO 39, 2013-Ohio-664, ¶ 27; *Lopez v. Quezada*, 10<sup>th</sup> Dist. Nos. 13AP-389 and 13AP-664, 2014-Ohio-367, ¶27.

**RECEIVED**  
ATTORNEY GENERAL OF OHIO

MAY 16 2019

CONSUMER PROTECTION SECTION  
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On April 23, 2014, the Court granted summary judgment against Defendant Everett Gagnon, and scheduled a damages hearing for Friday, June 13, 2014. *Order of Reference and Notice of Hearing* filed April 28, 2014. Just prior to the damages hearing, the State and Defendant Everett Gagnon submitted joint stipulations as to the State's May 14, 2014 request for consumer restitution, leaving the State's May 14, 2014 request for civil penalties the only issue left to resolve at the damages hearing.

The damages hearing was held as scheduled on June 13, 2014. The evidence admitted into evidence resulted in the Magistrate's Decision on Damages filed June 16, 2014. No objections were filed to the Magistrate's Decision, which Decision and findings of fact and conclusions of law are hereby incorporated by reference.

### **ORDER**

It is therefore **ORDERED, ADJUDGED, AND DECREED** that that judgment is hereby entered in favor of Plaintiff State of Ohio ex rel. Michael DeWine Attorney General of Ohio and against Defendants Cost Saver Home Improvements, LLC and Everett Gagnon on Plaintiff's Complaint and requests for relief as follows:

- A. Plaintiff's request for a Declaratory Judgment is GRANTED. It is DECLARED that each act or practice of Defendants Cost Saver Home Improvements, LLC and Everett Gagnon described in Plaintiff's Complaint violated the Consumer Sales Practices Act ("CSPA"), R.C. 1345.01 et seq., in the manner set forth in the Complaint;
- B. Plaintiff's request for PERMANENT INJUNCTIVE RELIEF is GRANTED. Defendants Cost Saver Home Improvements, LLC and Everett Gagnon, jointly and individually, their agents, servants, representatives, salespersons, employees, successors, assigns, and all

- persons acting in concert or participating with them, directly or indirectly, are enjoined from engaging in the acts or practices of which Plaintiff complained and from further violating the CSPA and its Substantive Rules, O.A.C. 109-4-3-01, et seq.
- C. Plaintiff's request for INJUNCTIVE RELIEF is GRANTED. Defendants Cost Saver Home Improvements, LLC and Everett Gagnon, jointly and individually, are enjoined from engaging in any 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 the consumer transactions, including any judgment resulting from this action, are satisfied.
- D. As a means of insuring compliance with this Court's Judgment and with the consumer protection laws of Ohio, Defendants Cost Saver Home Improvements, LLC and Everett Gagnon shall maintain in their possession and control for a period of five (5) years all business records relating to Defendant's solicitation and sale of home improvement goods and services in Ohio and will permit the Ohio Attorney General and his representative, upon reasonable twenty-four (24) hour notice, to inspect and/or copy any and all records.
- E. Defendants Cost Saver Home Improvements, LLC and Everett Gagnon, jointly and severally, are hereby ORDERED, pursuant to R.C. 1345.07(B), to pay Four Thousand Four Hundred Forty-Seven Dollars and Sixty-Two Cents (\$4,447.62) in consumer restitution. Defendants Cost Saver Home Improvements, LLC and Everett Gagnon, jointly and severally, are hereby ORDERED, pursuant to R.C. 1345.07(D), to pay a civil penalty of Twenty Five Thousand Dollars (\$25,000.00), for a total award of Twenty-Nine

Thousand Four Hundred Forty-Seven Dollars and Sixty-Two Cents (\$29,447.62) to Plaintiff State of Ohio ex rel. Michael DeWine Attorney General of Ohio, which will be distributed in accordance with Paragraphs F, G and H of this Judgment Entry.

F. The Four Thousand, Four Hundred and Forty-Seven Dollars and Sixty-Two Cents (\$4,447.62) paid by the Defendants shall be distributed by Plaintiff State of Ohio ex rel. Michael DeWine Attorney General of Ohio to the following consumers in the following amounts:

- i. Two Thousand Dollars (\$2,000.00) to Mr. Richard Burkhard.
- ii. One Thousand Six Hundred and Seventy-Five Dollars (\$1,675) to Ms. Cynthia Gwilliams.
- iii. Seven Hundred and Seventy-Two Dollars and Sixty-two Cents (\$772.62) to Mr. and Mrs. Steven and Margaret Arnett.

G. Defendants Cost Saver Home Improvements, LLC's and Everett Gagnon's joint and several obligations to pay Seven Hundred and Seventy-Two Dollars and Sixty-two Cents (\$772.62) to Plaintiff State of Ohio ex rel. Michael DeWine Attorney General of Ohio for distribution to Mr. and Mrs. Steven and Margaret Arnett shall be suspended pending Defendant Everett Gagnon's compliance with his obligation to repay the Arnetts pursuant to the Entry Granting Intervention in Lieu of Conviction in *State of Ohio v. Gagnon*, Fairfield C.P. No. 2013-CR-0542 (Nov. 26, 2013). Satisfaction of Defendant Everett Gagnon's obligation to repay the Arnetts in that case shall be deemed satisfaction of Defendants Cost Saver Home Improvements, LLC's and Everett Gagnon's obligation to pay the Arnetts consumer restitution in this case as set forth above. If Defendant Everett

Gagnon fails to timely satisfy his obligations pursuant to the Entry Granting Intervention in Lieu of Conviction in *State of Ohio v. Gagnon*, Fairfield C.P. No. 2013-CR-0542 (Nov. 26, 2013), then Defendants' obligations to pay Seven Hundred and Seventy-Two Dollars and Sixty-two Cents (\$772.62) to Plaintiff State of Ohio ex rel. Michael DeWine Attorney General of Ohio for distribution to Mr. and Mrs. Steven and Margaret Arnett as consumer restitution shall no longer be suspended and shall become immediately due and payable.

- H. As indicated above, Defendants Cost Saver Improvements, LLC and Everett Gagnon shall jointly and severally pay a Twenty-Five Thousand Dollars (\$25,000) civil penalty to Plaintiff State of Ohio ex rel. Michael DeWine Attorney General of Ohio and Plaintiff State of Ohio ex rel. Michael DeWine Attorney General of Ohio shall comply with the requirements of R.C. 1345.07(G).
- I. The Defendants' payments to the Attorney General shall be made by certified check or money order, payable to the "Ohio Attorney General's Office," attention:

**Compliance Officer  
Consumer Protection Section  
Ohio Attorney General's Office  
30 E. Broad Street, 14th Floor  
Columbus, OH 43215**

- J. Defendants shall pay all court costs associated with this matter. Based upon the lack of evidence presented to the Court and the Magistrate's June 16, 2014 Decision, Plaintiff State of Ohio ex rel. Michael DeWine Attorney General of Ohio is not entitled to an award of its costs in bringing this action.
- K. This Court shall retain jurisdiction to enforce compliance with this Consent Judgment.

**THE COURT FINDS THAT THERE IS NO JUST REASON FOR DELAY** in entering judgment herein. **THIS IS A FINAL APPEALABLE ORDER.** Pursuant to Civil Rule 58, the Clerk of Court shall serve upon all parties notice of this Judgment and its date of entry.

**IT IS SO ORDERED.**

Copies To:

Bradley M. Turner, Esq.  
Melissa Szozda, Esq.  
Counsel for Plaintiff

Everett Gagnon  
8566 High Trail  
Mason, OH 45040  
Defendant *pro se*

Cost Saver Home Improvements LLC  
8566 High Trail  
Mason, OH 45040  
Defendant

Franklin County Court of Common Pleas

**Date:** 07-31-2014  
**Case Title:** OHIO STATE ATTORNEY GENERAL MICHAEL DEWI -VS-  
COST SAVER HOME IMPROVEMENTS LLC ET AL  
**Case Number:** 13CV002866  
**Type:** JUDGMENT ENTRY

It Is So Ordered.

A handwritten signature in black ink, appearing to read 'C. Schneider', is written over a circular official seal. The seal is partially obscured by the signature and contains some illegible text and a central emblem.

/s/ Judge Charles A. Schneider

Court Disposition

Case Number: 13CV002866

Case Style: OHIO STATE ATTORNEY GENERAL MICHAEL DEWI -  
VS- COST SAVER HOME IMPROVEMENTS LLC ET AL

Case Terminated: 10 - Magistrate

Final Appealable Order: Yes