

IN THE COURT OF COMMON PLEAS  
MONTGOMERY COUNTY, OHIO

STATE OF OHIO ex rel.  
ATTORNEY GENERAL  
DAVE YOST

Plaintiff,

v.

LLOYD WELLS, *et al.*,

Defendants.

) Case No: 2019 CV 5585

) Judge: Steven K. Dankof

) FINAL JUDGMENT

) ENTRY AND ORDER

) **RECEIVED**  
ATTORNEY GENERAL OF OHIO

) **MAR 30 2021**

) **CONSUMER PROTECTION SECTION**  
PUBLIC INSPECTION FILE

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The Plaintiff commenced this action on November 25, 2019, by filing its Complaint and Request for a Declaratory Judgment, Injunctive Relief, Consumer Restitution, Civil Penalties, and Other Appropriate Relief against Defendants Lloyd Wells and Wells Heating and Air Conditioning, Inc. ("Defendants"). The Complaint alleged violations of the Ohio Consumer Sales Practices Act ("CSPA"), R.C. 1345.01 *et seq.*, its Substantive Rules, Ohio Administrative Code ("O.A.C.") 109:4-3-01 *et seq.*, and the Home Solicitation Sales Act ("HSSA"), R.C. 1345.21 *et seq.*

Defendant Wells Heating and Air Conditioning, Inc. was served November 26, 2019 by certified mail. Defendant Lloyd Wells was served by publication with proof of publication filed October 5, 2020. Plaintiff moved for default judgment on November 4, 2020, and the Court entered a Default Judgment Entry and Order against Defendants on November 9, 2020.

Plaintiff filed a Memorandum in Support of Damages and Other Requested Relief ("Damages Memo"), in which Plaintiff submitted evidence, including consumer affidavits, supporting the amount of consumer damages and civil penalties that Plaintiff was requesting. In

their affidavits, the consumers attested to the damages each of them suffered. The evidence established that the consumers sustained monetary damages after Defendants failed to provide the services for which Defendants accepted the consumers' payments.

The Court finds that the consumers sustained damages in the amount of \$2,771.89.

In its Damages Memo, Plaintiff also explained the basis for a \$5,000.00 civil penalty. Plaintiff requested the civil penalty pursuant to R.C. 1345.07(D) and provided evidence of the Defendants' violations of the CSPA sufficient to warrant imposing a civil penalty. The Court finds Plaintiff's request for a civil penalty in the amount of \$5,000.00 well-taken.

**Based on the above, the Court includes below the Findings of Fact, Conclusions of Law, and relief ordered in the Court's November 9, 2020 Default Judgment Entry and Order, and orders additional relief based on the evidence presented in the Plaintiff's Damages Memo.**

#### **FINDINGS OF FACT**

1. Defendant Lloyd Wells ("Wells") is a natural person last known to reside at 514 Valewood Ln., Dayton, Ohio 45405.
2. Defendant Wells Heating and Air Conditioning, Inc. ("WHAC") is a business incorporated in Ohio, whose articles of incorporation were filed and recorded with the Ohio Secretary of State on March 24, 2014.
3. Defendant Wells at all times pertinent hereto controlled and directed the business activities and sales conduct of Defendant WHAC, causing, personally participating in, or ratifying the acts and practices of Defendant WHAC, including the conduct giving rise to the violations described herein.

4. Defendants engaged in the business of providing goods and services to consumers, including repair and installation of heating and air conditioning equipment, and failed to deliver some of those goods and services within eight weeks.
5. Defendants have refused to refund consumers' deposits or payments despite consumers' requests for refunds.
6. After receiving payment, Defendants sometimes began work but failed to complete the work.
7. Defendants provided shoddy and substandard home repair services to consumers and then failed to correct such services.
8. 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.
9. Defendants sold maintenance and repair warranties to consumers and failed to honor those warranties.
10. At the time of the transactions, Defendants failed to notify consumers of their rights to cancel the transactions, and failed to provide consumers with notices of cancellation forms describing the consumers' rights to cancel the transactions.

#### **CONCLUSIONS OF LAW**

11. Jurisdiction over the subject matter of this action lies with this Court pursuant to R.C. 1345.04 of the CSPA.
12. This Court has venue to hear this case pursuant to Ohio Civ. R. 3(C)(1) and (3), in that Defendants reside in Montgomery County and Montgomery County is the county in which Defendants conducted activity that gave rise to the claims for relief.

13. The Attorney General is the proper party to commence these proceedings under the authority provided him under R.C. 1345.01 *et seq.* and by virtue of his statutory and common law authority to protect the interests of the citizens of Ohio.
14. Defendants are "suppliers," 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 heating and air conditioning equipment goods and services for a fee, within the meaning of R.C. 1345.01(A).
15. Defendants committed unfair and 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.
16. Defendants committed unfair and 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.
17. Defendants committed unfair and deceptive acts and practices in violation of the CSPA, R.C. 1345.02(B)(10), by representing that the transactions involved a warranty when this representation was false.
18. Defendants violated the HSSA, R.C. 1345.23, and R.C. 1345.02(A), by failing to give proper notices to consumers of their rights to cancel their transactions by a specific date.

**THEREFORE IT IS ORDERED, ADJUDGED, AND DECREED THAT:**

- A. The Plaintiff's request for a Declaratory Judgment that the acts or practices set forth above are in violation of the CSPA, its Substantive Rules, and the HSSA, is hereby GRANTED.
- B. Defendants Lloyd Wells and WHAC, under these or any other names, their officers, partners, agents, representatives, salespersons, employees, successors or assigns, and all persons acting in concert and participation with them directly or indirectly through any corporate device, partnership or association, in connection with any consumer transaction, are hereby PERMANENTLY ENJOINED from engaging in the acts and practices of which Plaintiff complains, including, without limitation, the conduct described in the Conclusions of Law Paragraphs 15-18, and from further violating the CSPA, R.C. 1345.01 *et seq.*, its Substantive Rules, and the HSSA, R.C. 1345.21 *et seq.*
- C. Defendants are ORDERED to pay consumer damages to the Ohio Attorney General in the total amount of \$2,771.89 to be distributed by the Attorney General to the five consumers who provided affidavits attached to the Plaintiff's Damages Memo as Exhibits 2-6.
- D. Pursuant to the above findings that Defendants committed unfair or deceptive acts or practices in violation of the CSPA, Defendants are ORDERED to pay a civil penalty to the Ohio Attorney General in the amount of \$5,000.00.
- E. Defendants are liable to Plaintiff for collection costs as permitted by law.
- F. Defendants are assessed all court costs.

**IT IS SO ORDERED.**

\_\_\_\_\_  
DATE

\_\_\_\_\_  
JUDGE STEVEN K. DANKOF

Prepared by:

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General Division  
Montgomery County Common Pleas Court  
41 N. Perry Street, Dayton, Ohio 45422

**Case Number:**  
2019 CV 05585

**Case Title:**  
STATE OF OHIO EX REL. ATTORNEY GENERAL DAVE  
YOST vs LLOYD WELLS

**Type:**

Final Judgment Entry

So Ordered,

A handwritten signature in black ink, appearing to read "Steven L. Dankof", with a long horizontal line extending to the right.