

IN THE COURT OF COMMON PLEAS
FRANKLIN COUNTY, OHIO

STATE OF OHIO, <i>ex rel.</i> ,)	
ATTORNEY GENERAL OF OHIO)	CASE NO. 20 CV 007582
DAVE YOST,)	
)	
PLAINTIFF,)	JUDGE COLLEEN O'DONNELL
)	
v.)	
)	<u>FINAL JUDGMENT</u>
)	<u>ENTRY AND ORDER</u>
J. GRAM MOSLEY, <i>et al.</i> ,)	
)	
)	
DEFENDANTS.)	

The Plaintiff commenced this action on November 20, 2020, by filing its Complaint and Request for a Declaratory Judgment, Injunctive Relief, Consumer Restitution, Civil Penalties, and Other Appropriate Relief against Defendants J. Gram Mosley, Dawn Mosley, and Mosley's Meat Market, LLC ("Defendants.") The Complaint alleged violations of the Ohio Consumer Sales Practices Act ("CSPA"), R.C. 1345.01 *et seq.*, and the Failure to Deliver Rule, O.A.C. 109:4-3-09(A). Defendants were all separately served by certified mail on November 28, 2020. Plaintiff moved for default judgment on Jan. 21, 2021, and the Court entered a Default Judgment Entry and Order against Defendants on April 5, 2021.

On June 23, 2021, Plaintiff filed Plaintiff's Memorandum in Support of Damages and Other Requested Relief ("Damages Memo"). In its Damages Memo, 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

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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 \$2,213.00.

In its Damages Memo, Plaintiff also explained the basis for a \$5,000 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 well-taken.

Based on the above, the Court restates below the Findings of Fact, Conclusions of Law, and ordered relief included in the Court's April 5, 2021 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 J. Gram Mosley is a natural person residing at 5305 Redlands Dr., Hilliard, OH 43026.
2. Defendant Dawn Mosley is a natural person residing at 5305 Redlands Dr., Hilliard, OH 43026.
3. Defendant Mosley's Meat Market, LLC was registered August 11, 2010 with the Ohio Secretary of State as a domestic limited liability company with J. Mosley as the statutory agent.
4. Defendants provided goods and services to consumers, including selling meat.
5. Defendants sold meat through their store Mosley's Meat Market and by directly delivering meat to consumers.
6. Defendants solicited consumers through their website mosleysmeatmarket.com.

7. Defendants advertised or promised prompt delivery and failed to take reasonable action to insure prompt delivery.
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. After receiving payment, Defendants sometimes delivered orders that included meat that was spoiled and rancid.
10. Defendants failed to replace the meat that was delivered spoiled and rancid.
11. Defendants have refused to refund consumers' deposits or payments despite consumers' requests for refunds.

CONCLUSIONS OF LAW

12. Jurisdiction over the subject matter of this action lies with this Court pursuant to R.C. 1345.04 of the CSPA.
13. This Court has venue to hear this case pursuant to Ohio Civ. R. 3(C)(1), (2), and (3) in that Franklin County is the County in which Defendants reside, the County where Defendants' principal place of business was located, and the County where Defendants conducted activity that gave rise to the claims for relief.
14. The Attorney General is the proper party to commence these proceedings under the authority provided him under R.C. 1345.01 *et seq.*
15. Defendants are each a "supplier," 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 the sale of meat products, within the meaning of R.C. 1345.01(A).

16. Defendant J. Gram Mosley at all times pertinent hereto controlled and directed the business activities and sales conduct of Defendant Mosley's Meat Market, LLC, causing, personally participating in, or ratifying the acts and practices of Defendant Mosley's Meat Market, LLC, including the conduct giving rise to the violations described herein.
17. Defendant Dawn Mosley at all times pertinent hereto controlled and directed the business activities and sales conduct of Defendant Mosley's Meat Market, LLC, causing, personally participating in, or ratifying the acts and practices of Defendant Mosley's Meat Market, LLC, including the conduct giving rise to the violations described herein.
18. 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.

THEREFORE IT IS ORDERED, ADJUDGED, AND DECREED THAT:

- A. The Plaintiff's request for a Declaratory Judgment that the acts and practices set forth above are in violation of the CSPA and its Substantive Rules, is hereby GRANTED.
- B. 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, are hereby PERMANENTLY ENJOINED from engaging in the acts and practices of which Plaintiff complains and from further violating the CSPA, R.C. 1345.01 *et seq.*, and its Substantive Rules.

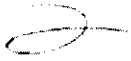
- C. Defendants are hereby PERMANENTLY ENJOINED from engaging in business as a supplier in any consumer transaction in the State of Ohio until such time as they have satisfied all monetary obligations ordered by this Court, and any other Court in Ohio in connection with a consumer transaction.
- D. Defendants are ORDERED to pay consumer damages to the Ohio Attorney General in the total amount of \$2,213.00 to be distributed by the Attorney General to the eighteen consumers who provided affidavits attached to the Plaintiff's Damages Memo as Exhibits 1-18.
- E. Pursuant to the above findings that Defendants committed unfair and deceptive acts and 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.
- E. Defendants are liable to Plaintiff for collection costs and interest as permitted by law.
- F. Defendants are assessed all court costs.

IT IS SO ORDERED.

DATE

JUDGE COLLEEN O'DONNELL

Approved by:



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Franklin County Court of Common Pleas

Date: 06-29-2021
Case Title: STATE OF OHIO EX REL OHIO ATTORNEY GENER -VS- J
GRAM MOSLEY ET AL
Case Number: 20CV007582
Type: JUDGMENT ENTRY

It Is So Ordered.

A handwritten signature in black ink, appearing to read "Colleen O'Donnell". The signature is fluid and cursive, with the first name "Colleen" and last name "O'Donnell" clearly distinguishable.

/s/ Judge Colleen O'Donnell

Court Disposition

Case Number: 20CV007582

Case Style: STATE OF OHIO EX REL OHIO ATTORNEY GENER -
VS- J GRAM MOSLEY ET AL

Case Terminated: 12 - Default

Final Appealable Order: Yes