

6/30/2023 9:07 AM
By: SW

**IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL DISTRICT
CHAMPAIGN COUNTY**

Susan W. McGee
CLERK OF THE CIRCUIT COURT
CHAMPAIGN COUNTY, ILLINOIS

THE PEOPLE OF THE STATE OF ILLINOIS,

Plaintiff,

v.

JOHN C. LITCHFIELD, d/b/a JOHN
LITCHFIELD CONCRETE,

Defendant.

2023CH000026

No. _____

COMPLAINT FOR INJUNCTIVE AND OTHER RELIEF

Plaintiff, the People of the State of Illinois, by Kwame Raoul, Attorney General of the State of Illinois, brings this action for injunctive and other relief against Defendant, John C. Litchfield, d/b/a John Litchfield Concrete (“Litchfield”) for violations of the Illinois Consumer Fraud and Deceptive Business Practices Act 815 ILCS 505/1, *et seq.* and the Home Repair and Remodeling Act 815 ILCS 513/1, *et seq.*

PUBLIC INTEREST

1. The Illinois Attorney General believes this action to be in the public interest of the citizens of the State of Illinois and brings this lawsuit pursuant to the Illinois Consumer Fraud and Deceptive Business Practices Act, 815 ILCS 505/7(a) and the Home Repair and Remodeling Act.

JURISDICTION AND VENUE

2. This action is brought for and on behalf of THE PEOPLE OF THE STATE OF ILLINOIS, by KWAME RAOUL, Attorney General of the State of Illinois, pursuant to the provisions of the Consumer Fraud and Deceptive Business Practices Act (“Consumer Fraud Act”), 815 ILCS 505/1 *et seq.*, and his common law authority as Attorney General to represent the People of the State of Illinois.

3. Venue for this action properly lies in Champaign County, Illinois, pursuant to Section 2-101 of the Illinois Code of Civil Procedure, 735 ILCS 5/2-101, in that Litchfield is an Illinois resident transacting business in Illinois, and some of the transactions out of which this action arose occurred in Champaign County.

PARTIES

4. Plaintiff, the People of the State of Illinois, by Kwame Raoul, the Attorney General of the State of Illinois, is authorized to enforce the Consumer Fraud Act.

5. John C. Litchfield, is an Illinois resident, with a last known address at 412 E. State Street, Mahomet, IL 61853-9578.

6. Upon information and belief, Litchfield did business under the name “John Litchfield Concrete” and at times represented to consumers that he operated using that name.

7. Litchfield never incorporated under the laws of the State of Illinois nor did he form a limited liability company or register an assumed business name for “John Litchfield Concrete.”

8. For purposes of this Complaint for Injunctive and Other Relief, any references to the acts and practices of the Litchfield shall mean that such acts and practices are by and through the acts of John C. Litchfield d/b/a John Litchfield Concrete.

TRADE AND COMMERCE

9. Subsection 1(f) of the Consumer Fraud Act, 815 ILCS 505/1(f), defines "trade" and "commerce" as follows:

The terms 'trade' and 'commerce' mean the advertising, offering for sale, sale, or distribution of any services and any property, tangible or intangible, real, personal, or mixed, and any other article, commodity, or thing of value wherever situated, and shall include any trade or commerce directly or indirectly affecting the people of

this State.

10. Litchfield was at all times relevant hereto, engaged in trade and commerce in the State of Illinois by advertising and home repairs and landscaping repairs including, but not limited to, construction and installation of retaining walls, fencing, patios, and related landscaping work.

BACKGROUND

Litchfield's Unfair and Deceptive Business Practices

11. Beginning in at least November of 2019, Litchfield engaged in the trade of constructing and installing of swimming pools and patios and related services for consumers' residential property.

12. Litchfield required the consumers to make down payments, sometimes exceeding several tens of thousands of dollars before Litchfield would commence providing services.

13. On several occasions Litchfield set appointments to survey consumers' property and to begin contractually required services such as demolition or the procurement of supplies.

14. In some instances, Litchfield never commenced the work or purchased the supplies for which homeowners gave him the down payment.

15. In other instances, Litchfield began to perform a portion of the contracted for work, but failed to complete the work, and when services were performed, the results were faulty.

16. Further, Litchfield failed to issue a refund, and cut off communication with the respective consumers without finishing the contracted for work or providing a refund for work not completed.

CONSUMER ILLUSTRATIONS

17. To date, the Office of the Illinois Attorney General has received six complaints from consumers relating to the business practices of Litchfield.

18. More specifically, but not by way of limitation, the following allegations are pled as illustrations of the unlawful business practices of Litchfield and are not meant to be exhaustive. Any examples provided of the specific consumer experiences are simply illustrations and should not be construed as the only instances in which an Illinois consumer was harmed by Litchfield. Plaintiff reserves the right to prove that consumers, other than those who have complained to the Office of the Attorney General, have been injured as a result of Litchfield's unlawful acts and practices. Plaintiff intends to seek restitution and injunctive relief on behalf of all consumers who have been injured and not just those consumers set forth here as illustrative examples.

Thomas H.

19. On or about March 25, 2021, Thomas H. contracted with Litchfield to build a 14- by 14-foot sunroom at his residence with a stamped concrete floor and tempered, sliding glass doors for a total cost of \$40,000 with half (\$20,000) to be paid up front and the remaining to be paid upon completion.

20. At this time, no monies were paid and no work began as Thomas H. needed to acquire permits for the construction to begin.

21. On or about September of 2021, Thomas H. obtained a permit to build however work did not begin as contracted until April 1, 2022, at which time a second contract was entered between the parties which altered the sunroom to a 15- by 15-foot sunroom for a total of \$50,000, with \$33,000 to be paid up front and the remaining \$17,000 to be paid upon completion

of the work.

22. At that time, Thomas H. paid Litchfield \$33,000 by check, which Litchfield subsequently cashed.

23. Litchfield began work in April of 2022 by taking measurements and retrieving supplies.

24. In or about June 2022, construction of the sunroom began by digging out a foundation with a mini-excavator; however, the quality of work was so poor there were numerous delays and attempts to restart by Litchfield to match the proper dimensions as contracted.

25. In or about July 2022, Litchfield began pouring concrete sourced by sub-contractor Redi-Max; however, the concrete work was so poor Thomas H. demanded Litchfield explain his methods to him. Litchfield denied there was anything wrong with his methods.

26. In or about July 2022, Thomas H. became increasingly involved in the project, often directing basic measurements and applications of materials.

27. By September 2022, the doubts Thomas H. had in Litchfield grew to such a level he retained two Inspectors from the City of Urbana to inspect the quality of Litchfield's work thus far.

28. On or about September 12, 2022, Corey Ireland and Nicholas Hanson, both Inspectors for the City of Urbana, arrived to inspect the premises. They subsequently discovered and expressed to Thomas H. that Litchfield's work was not up to code because the cement pouring was incapable of supporting a load-bearing wall of the sunroom, which posed a safety concern should the work be completed as it was.

29. Further, it was discovered on September 12, 2022 that Litchfield lied to Thomas

H. about having already applied a rubber seal between the wood flooring and concrete meant to seal the gaps between the two materials.

30. On or about September 12, 2022, Litchfield stopped responding to Thomas H.'s attempts to communicate. At this time approximately 70% of the work was yet to be completed. And the work completed was not in a workmanlike condition.

31. Further, on or about August of 2022, Thomas H. received Notices of Intent to Record a Lien from sub-contractor Redi-Max, and explained to Thomas H. that Litchfield had owed Redi-Max \$1,387 for concrete that was delivered but not paid for.

32. To this date, Thomas H. continues to work with sub-contractor Redi-Max to come to a solution to their not being paid for materials supplied.

33. On October 7, 2022, Thomas H. filed a complaint with the Illinois Attorney General's Office.

34. To this date, all efforts by Thomas H. to communicate with Litchfield and demand a refund of the monies paid for services not performed have failed.

35. At no point after the contract was entered with Litchfield did Litchfield provide written or verbal notice of the right to cancel the contract within three days after signing; nor did Litchfield provide a consumer rights brochure or provide a form to sign acknowledging receipt of the consumer rights brochure.

Gary N.

36. For all times relevant to this complaint, Gary N. was a resident of Edgar County, Illinois.

37. On or about July 17, 2021, Gary N. entered into a contract with Litchfield to install a pool and concrete patio on their property for a total of \$60,000, with the initial payments broken

into phases.

38. The first payment occurred on or about July 26, 2021, at which time Gary N. paid Litchfield \$10,500 by check for an automatic pool cover that unfortunately never actually arrived.

39. On or about August of 2021, Litchfield began work on Gary N.'s patio, which was removed and foundations for a new one were stamped out. Work on the patio continued throughout the fall.

40. The second payment occurred on or about October 5, 2021 and was tendered by Gary N. to Litchfield for \$5,000, which Litchfield requested for ordering a dump truck, which never came.

41. Work subsequently ceased and each attempt by Gary N. to reach Litchfield only resulted in assurances for work to begin which were never actually honored by Litchfield.

42. By July 2022, all communications with Litchfield had ceased and all attempts by Gary N. to obtain a refund for monies paid failed.

43. To this date, Gary N. has not received from Litchfield any refund of monies paid.

44. At no point after the contract was entered with Litchfield did Litchfield provide written or verbal notice of the right to cancel the contract within three days after signing; nor did Litchfield provide a consumer rights brochure or provide a form to sign acknowledging receipt of the consumer rights brochure.

COUNT I

CONSUMER FRAUD AND DECEPTIVE BUSINESS PRACTICES ACT

45. The People re-allege and incorporate by reference the allegations in Paragraphs 1 through 44.

46. Section 2 of the Consumer Fraud and Deceptive Business Practices Act, 815, ILCS 505/2, provides:

Unfair methods of competition and unfair or deceptive acts or practices, including but not limited to the use or employment of any deception, fraud, false pretense, false promise, misrepresentation or the concealment, suppression or omission of any material fact, with intent that others rely upon the concealment, suppression or omission of such material fact, or the use or employment of any practice described in Section 2 of the 'Uniform Deceptive Trade Practices Act', approved August 5, 1965, in the conduct of any trade or commerce are hereby declared unlawful whether any person has in fact been misled, deceived or damaged thereby.

47. While engaged in trade or commerce, Litchfield has committed unfair and deceptive acts or practices declared unlawful under Section 2 of the Consumer Fraud Act, 815 ILCS 505/2, by, in the course of advertising, offering for sale, selling, and accepting money for home repair and landscaping services:

- a. representing, expressly or by implication, with intent that consumers rely on such representations, that he will perform the services contracted for and then failing to do so;
- b. representing, expressly or by implication, with intent that consumers rely on such representations, that he will use down payments to purchase project supplies, and then failing to do so;
- c. unfairly and deceptively taking payments from consumers for services, but not providing the paid-for services; and
- d. failing to provide a refund to consumers for uncompleted services and supplies.

REMEDIES

48. Section 7 of the Consumer Fraud and Deceptive Business Practices Act, 815 ILCS 505/7, provides:

- (a) Whenever the Attorney General has reason to believe that any person is using, has used, or is about to use any method, act or practice declared by the Act to be unlawful, and that proceedings would be in the public interest, he may bring an action in the name of the State against such person to restrain by preliminary or permanent injunction the use of such method, act or practice. The Court, in its discretion, may exercise all powers necessary, including but not limited to: injunction, revocation, forfeiture or suspension of any license, charter, franchise, certificate or other evidence of authority of any person to do business in this State; appointment of a receiver; dissolution of domestic corporations or association suspension or termination of the right of foreign corporations or associations to do business in this State; and restitution.
- (b) In addition to the remedies provided herein, the Attorney General may request and this Court may impose a civil penalty in a sum not to exceed \$50,000 against any person found by the Court to have engaged in any method, act or practice declared unlawful under this Act. In the event the court finds the method, act or practice to have been entered into with intent to defraud, the court has the authority to impose a civil penalty in a sum not to exceed \$50,000 per violation.

49. Section 10 of the Consumer Fraud Act, 815 ILCS 505/10, provides that “in any action brought under the provisions of this Act, the Attorney General is entitled to recover costs for the use of this State.”

PRAYER FOR RELIEF—COUNT I

50. As relief for Litchfield’s violations of the Consumer Fraud Act as alleged in Count I, Plaintiff prays that this Honorable Court enter an Order:

A. Finding that Litchfield has violated Section 2 of the Consumer Fraud and Deceptive Business Practices Act, 815 ILCS 505/2, by engaging in the unlawful acts and practices alleged herein;

B. Preliminarily and permanently enjoining the Litchfield from engaging in the deceptive and unfair practices alleged herein;

C Preliminarily and permanently enjoining the Litchfield from advertising, offering for sale or selling within Illinois pool installation services, landscaping, home remodeling, or any related services;

D. Declaring that all contracts entered into between the Litchfield and Illinois consumers by the use of methods and practices declared unlawful are rescinded and requiring that full restitution be made to said consumers;

E. Ordering the Litchfield to pay up to \$50,000 per deceptive or unfair act or practice and an additional amount of \$50,000 for each act or practice found to have been committed with intent to defraud, as provided in Section 7 of the Consumer Fraud Act, 815 ILCS 505/7;

F. Ordering the Litchfield to pay up to \$10,000 for any method, act, or practice declared unlawful under the Consumer Fraud Act and directed toward a person 65 years of age or older;

G. Requiring the Litchfield to pay all costs for the prosecution and investigation of this action, as provided by Section 10 of the Consumer Fraud Act, 815 ILCS 505/10; and

H. Providing such other and further equitable relief as justice and equity may require.

COUNT II

HOME REPAIR AND REMODELING ACT

50. The People re-allege and incorporate by reference the allegations in Paragraphs 1 through 49.

51. Section 2(a)(1) of the Home Repair Fraud Act, 815 ILCS 513 defines “home repair” as:

2(a) "Home Repair" means the fixing, replacing, altering, converting, modernizing, improving of or the making of an addition to any real property primarily designed or used as a residence. (1) Home repair shall include the construction, installation, replacement or improvement of driveways, swimming pools, porches, kitchens, chimneys, chimney liners, garages, fences, fallout shelters, central air conditioning, central heating, boilers, furnaces, hot water heaters, electrical wiring, sewers, plumbing fixtures, storm doors, storm windows, awnings and other improvements to structures within the residence or upon the land adjacent thereto.

52. Section 20 of the Home Repair and Remodeling Act, 815 ILCS 513, provides, in pertinent part:

(a) For any contract over \$1,000, any person engaging in the business of home repair and remodeling shall provide to its customers a copy of the "Home Repair: Know Your Consumer Rights" pamphlet prior to the execution of any home repair and remodeling contract. The consumer shall sign and date an acknowledgment form entitled "Consumer Rights Acknowledgment Form" that states: "I, the homeowner, have received from the contractor a copy of the pamphlet entitled 'Home Repair: Know Your Consumer Rights.'" The contractor or his or her representative shall also sign and date the acknowledgment form, which includes the name and address of the home repair and remodeling business. The acknowledgment form shall be in duplicate and incorporated into the pamphlet. The original acknowledgment form shall be retained by the contractor and the duplicate copy shall be retained within the pamphlet by the consumer.

(b) For any contract for \$1,000 or under, any person engaging in the business of home repair and remodeling shall provide to its customers a copy of the "Home Repair: Know Your Consumer Rights" pamphlet. No written acknowledgment of receipt of the pamphlet is required for a contract of \$1,000 or under.

(c) The pamphlet must be a separate document, in at least 12 point type, and in legible ink. The pamphlet shall read as follows:

"HOME REPAIR: KNOW YOUR CONSUMER RIGHTS

As you plan for your home repair/improvement project, it is important to ask the right questions in order to protect your investment. The tips in this fact sheet should allow you to protect yourself and minimize the possibility that a misunderstanding may

occur.

AVOIDING HOME REPAIR FRAUD

Please use extreme caution when confronted with the following warning signs of a potential scam:

- (1) Door-to-door salespersons with no local connections who offer to do home repair work for substantially less than the market price.
- (2) Solicitations for repair work from a company that lists only a telephone number or a post-office box number to contact, particularly if it is an out-of-state company.
- (3) Contractors who fail to provide customers references when requested.
- (4) Persons offering to inspect your home for free. Do not admit anyone into your home unless he or she can present authentic identification establishing his or her business status. When in doubt, do not hesitate to call the worker's employer to verify his or her identity.
- (5) Contractors demanding cash payment for a job or who ask you to make a check payable to a person other than the owner or company name.
- (6) Offers from a contractor to drive you to the bank to withdraw funds to pay for the work.

CONTRACTS

- (1) Get all estimates in writing.
- (2) Do not be induced into signing a contract by high-pressure sales tactics.
- (3) Never sign a contract with blank spaces or one you do not fully understand. If you are taking out a loan to finance the work, do not sign the contract before your lender approves the loan.
- (4) Remember, you have 3 business days from the time you sign your contract to cancel any contract if the sale is made at your home. The contractor cannot deprive you of this right by initiating work, selling your contract to a lender, or any other tactic.
- (5) If the contractor does business under a name other than the contractor's real name, the business must either be incorporated or registered under the Assumed Business Name Act. Check with the Secretary of State to see if the business is incorporated or with the county clerk to see if the business has registered under the Assumed Business Name Act.
- (6) Homeowners should check with local and county units of government to determine if permits or inspections are required.

(7) Determine whether the contractor will guarantee his or her work and products.

(8) Determine whether the contractor has the proper insurance.

(9) Do not sign a certificate of completion or make final payment until the work is done to your satisfaction.

(10) Before you pay your contractor, understand that the Mechanics Lien Act requires that you shall request and the contractor shall give you a signed and notarized written statement (known as a "Sworn Statement") that lists all the persons or companies your contractor hired to work on your home, their addresses along with the amounts about to be paid, and the total amount owed after the payment to those persons or companies.

Suppliers and subcontractors have a right to file a lien against your home if they do not get paid for their labor or materials. To protect yourself against liens, you should demand that your contractor provide you with a Sworn Statement before you pay the contractor. You should also obtain lien waivers from all contractors and subcontractors if appropriate. You should consult with an attorney to learn more about your rights and obligations under the Mechanics Lien Act.

Disclaimer: The contents of this paragraph are required to be placed in the pamphlet for consumer guidance and information only. The contents of this paragraph are not substantive enforceable provisions of the Home Repair and Remodeling Act and are not intended to affect the substantive law of the Mechanics Lien Act.

BASIC TERMS TO BE INCLUDED IN A CONTRACT

(1) Contractor's full name, address, and telephone number. Illinois law requires that persons selling home repair and improvement services provide their customers with notice of any change to their business name or address that comes about prior to the agreed dates for beginning or completing the work.

(2) A description of the work to be performed.

(3) Starting and estimated completion dates.

(4) Total cost of work to be performed.

(5) Schedule and method of payment, including down payment, subsequent payments, and final payment.

(6) A provision stating the grounds for termination of the contract by either party. However, the homeowner must pay the contractor for work completed. If the contractor fails to commence or complete work within the contracted time period, the homeowner may cancel and may be entitled to a refund of any down payment or other payments made towards the work, upon

written demand by certified mail.

(7) A provision stating the grounds for termination of the contract if you are notified by your insurer that all or any part of the claim or contract is not a covered loss under the insurance policy, you may cancel the contract by mailing or delivering written notice to (name of contractor) at (address of contractor's place of business) at any time prior to the earlier of midnight on the fifth business day after you have received such notice from your insurer or the thirtieth business day after receipt of a properly executed proof of loss by the insurer from the insured. If you cancel, any payments made by you under the contract will be returned to you within 10 business days following receipt by the contractor of your cancellation notice. If, however, the contractor has provided any goods or services related to a catastrophe, acknowledged and agreed to by the insured homeowner in writing to be necessary to prevent damage to the premises, the contractor is entitled to the reasonable value of such goods and services.

Homeowners should obtain a copy of the signed contract and keep it in a safe place for reference as needed.

To file a complaint against a roofing contractor, contact the Illinois Department of Financial and Professional Regulation at 312-814-6910 or file a complaint directly on its website.

IF YOU THINK YOU HAVE BEEN DEFRAUDED OR YOU HAVE QUESTIONS

If you think you have been defrauded by a contractor or have any questions, please bring it to the attention of your State's Attorney or the Illinois Attorney General's Office.

Attorney General Toll-Free Numbers

Carbondale (800) 243-0607

Springfield (800) 243-0618

Chicago (800) 386-5438".

53. Subsequent to January 1, 2012, Litchfield entered into contracts or agreements for home repair with Illinois consumers.
54. Said contracts or agreements were for amounts in excess of \$1,000.
55. Litchfield failed to provide to customers a copy of the "Home Repair: Know Your Consumer Rights" pamphlet prior to the execution of any home repair and remodeling contract.

56. Litchfield failed to have each such consumer sign and date an acknowledgment form entitled “Consumer Rights Acknowledgment Form.”

57. Litchfield failed to provide each consumer with an executed copy of said form.

58. Such failures as alleged in Paragraphs 58 through 63 constitute violations of Section 20(a) of the Home Repair and Remodeling Act.

59. Section 35 of the Illinois Home Repair and Remodeling Act, 815 ILCS 513/35, states in pertinent part:

(b) All remedies, penalties, and authority granted to the Attorney General or the State’s Attorney of any county in this State by the Consumer Fraud and Deceptive Business Practices Act shall be available to him or her for enforcement of this Act, and any violation of this Act shall constitute a violation of the consumer Fraud and Deceptive Business Practice Act.

PRAYER FOR RELIEF—COUNT II

60. As relief for Litchfield’s violations of the Home Repair and Remodeling Act as alleged in Count II, Plaintiff prays that this Honorable Court enter an Order:

A. Finding that the Litchfield has violated Section 20(a) of the Home Repair and Remodeling Act by, but not limited to, engaging in the unlawful acts and practices alleged herein;

B. Preliminarily and permanently enjoining the Litchfield from engaging in the deceptive and unfair practices alleged herein;

C. Preliminarily and permanently enjoining the Litchfield from advertising, offering for sale or selling within Illinois home repair, remodeling, or any related services;

D. Declaring that all contracts entered into between the Litchfield and Illinois consumers by the use of methods and practices declared unlawful are rescinded and requiring that full restitution be made to said consumers;

E. Ordering the Litchfield to pay up to \$50,000 per deceptive or unfair act or practice and an additional amount of \$50,000 for each act or practice found to have been committed with intent to defraud, as provided in Section 7 of the Consumer Fraud Act, 815 ILCS 505/7;

F. Ordering the Litchfield to pay up to \$10,000 for any method, act, or practice declared unlawful under the Consumer Fraud Act and directed towards a person 65 years of age or older;

G. Requiring the Litchfield to pay all costs for the prosecution and investigation of this action, as provided by Section 10 of the Consumer Fraud Act, 815 ILCS 505/10;

H. Providing such other and further equitable relief as justice and equity may require.

Respectfully submitted,

THE PEOPLE OF THE STATE OF
ILLINOIS, by KWAME RAOUL,
ATTORNEY GENERAL OF ILLINOIS

Elizabeth Blackston
Consumer Fraud Bureau, Chief

_____/s/ Justin Tabatabai_____
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