

FILED
NORTH CAROLINA
WAKE COUNTY
2011 NOV 13 AM 10:14

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
File No. 11 CVS 03026

STATE OF NORTH CAROLINA,)
ex rel. ROY COOPER, ATTORNEY)
GENERAL,)
Plaintiff,)
v.)
LIGE BOBBY BOSWELL,)
d/b/a KATIDID PAVING,)
AJ PAVING, ABSOLUTE PAVING,)
SKYLINE PAVING, etc.,)
Defendant.)

**JUDGMENT BY DEFAULT
AND
PERMANENT INJUNCTION**

THIS MATTER came before the undersigned Judge presiding over the November 10, 2014 civil session of Wake County Superior Court upon plaintiff State of North Carolina's motion pursuant to Rule 55(b)(2) of the Rules of Civil Procedure for the entry of judgment by default against defendant. Special Deputy Attorney General David N. Kirkman appeared on behalf of the plaintiff. No one appeared on behalf of the defendant. The Court, having reviewed plaintiff's Motion and the record in this cause, finds and concludes as follows:

1. The State filed this action against defendant on February 23, 2011, alleging that he violated the North Carolina Unfair and Deceptive Trade Practices Act by engaging in driveway paving scams against home owners in the state, many of them elderly. The Court entered a Temporary Restraining Order against defendant the following day. On March 8, 2011, this Court entered a Preliminary Injunction limiting the manner in which defendant could conduct his driveway paving business in North Carolina.

2. Defendant filed an Answer on or about March 21, 2011, denying the principal allegations in plaintiff's Complaint and demanding a jury trial.
3. On March 23, 2011, plaintiff served upon defendant twenty written interrogatories and three requests for production of documents pursuant to Rules 33 and 34 of the Rules of Civil Procedure. Through that written discovery, plaintiff sought the identities of other North Carolina home owners with whom he had done business.
4. Defendant never responded to plaintiff's written discovery despite reminders to do so. On November 16, 2011, upon plaintiff's motion, this Court ordered defendant to respond fully and accurately to plaintiff's discovery by December 16, 2011 and to pay plaintiff \$315 to cover the fees and attorney costs incurred in preparing, filing and presenting its motion to compel.
5. Also during the fall of 2011, the Court ordered the parties to attend a mediated settlement conference. Richard T. Boyette of the Raleigh law firm Cranfill, Sumner and Hartzog, LLP was the mediator appointed. Mr. Boyette scheduled the mediation conference for October 19, 2011 and notified the parties to be present on that date.
6. As shown by the Report of Mediator in Superior Court Civil Action filed in this case by Mr. Boyette, "neither defendant nor counsel attended." Plaintiff's counsel did attend the mediation session, as noted on the Report.
7. Defendant never responded to the Court's order of November 16, 2011 directing him to respond to plaintiff's written discovery.
8. On October 12, 2012, the Court entered a judgment by default against defendant on the question of his liability for violating the Unfair and Deceptive Trade Practices Act, due to

the ongoing failure to comply with its discovery order. It held the matter open as to the amounts of consumer restitution and civil penalties that the defendant would have to pay, and for a determination of the terms of the permanent injunction sought by plaintiff.

9. Subsequent to the Court's order of October 12, 2012, defendant was stripped of his Virginia contractor's license as a consequence of his residential driveway paving and resurfacing activities in that state. The lengthy June 2013 orders setting forth the many factual bases for the revocation of his license can be found on the Commonwealth of Virginia Board of Contractors' website, <http://www.dpor.virginia.gov/LicenseLookup/> by entering defendant's license number, 2705068753.
10. As shown by the affidavits of Hannah Wilson and Bonnie Jones, attached to plaintiff's Motion, sometime in 2013 defendant resumed the same sort of deceptive, high pressure driveway paving tactics that formed the basis for this action and which were prohibited by the Court in its Preliminary Injunction of March 8, 2011.
11. Bonnie Jones' recently filed affidavit establishes that the defendant approached her at her home in Forsyth County in August, 2013, told her that he had leftover paving material from another job, and offered to pave her driveway. Defendant failed to present her with a written contract or written or verbal three-day cancellation notices, as required in this Court's March 8, 2011 Preliminary Injunction and by N.C. Gen. Stat. § 14-401(13). He did not even quote her a price for the job until he was done. At that point he requested \$4,000 from her. When Ms. Jones told him that she did not have that much money, he reduced the price to \$2,800 and accepted that sum from her. Defendant later pressed her for an additional \$2,000 to \$3,000 to finish the project. She refused, stating that they had an agreement for \$2800, which she had paid. Defendant did not complete the job.

12. On June 12, 2014, defendant approached Hannah Wilson of Walkertown, NC and told her he had paving material left over from another job nearby. He offered to pave her residential driveway. She balked at the price, whereupon he reduced his quote. She agreed to let him pave a small parking area on her property but not the entire driveway. Defendant did not prepare or present her with a printed contract showing the work to be done and the cost of that work, nor did he provide her with verbal or written notification of her 3-day right to cancel the transaction without penalty. After leaving her property, she and her husband returned late that evening to find that defendant and his men had paved the entire driveway. The following morning, Ms. Wilson and her husband “exchanged words” with defendant over the extent of the work that had been done. They also confronted him with what they had learned about him over the internet. They offered to pay him \$300.00 which he declined. A Forsyth County Deputy Sheriff was summoned to the property and he advised defendant he could settle the matter in court. The defendant said he did not want to do that and left the scene. A month later the pavement showed signs of deterioration.
13. Plaintiff’s Complaint had attached to it a joint affidavit executed by Wilbert and Mildred Jones of Bennett, North Carolina. That affidavit showed that defendant secured \$2,400.00 for re-graveling their rural driveway in a manner similar to the transactions described in the Wilson and Bonnie Jones affidavits, discussed above. Wilbert and Mildred Jones were 91 and 88 years of age, respectively, when defendant obtained their \$2,400.00. He completely re-graveled their entire driveway after saying he was only going to fill a depression near the entrance to the driveway using leftover materials from another job nearby.

14. Plaintiff's complaint also had attached to it an affidavit executed by Wanda Lou Parker of Bennett, North Carolina reflecting how her 85-year-old mother almost lost \$900.00 in a similar driveway re-graveling transaction with defendant. Defendant in that transaction failed to present her with a written contract or with verbal and written notices of her three-day right to cancel the transaction without penalty, as required by N.C. Gen. Stat. § 14-401(13).
15. The Hannah Wilson and Bonnie Jones affidavits establish that defendant recently, knowingly, and intentionally has violated the terms and conditions imposed upon him in the Court's Preliminary Injunction dated March 8, 2011. A much stricter Permanent Injunction therefore appears necessary so that further violations of the North Carolina Deceptive Trade Practices Act and further harm to North Carolina property owners might be avoided.
16. Plaintiff's counsel has presented an affidavit stating that he has devoted at least 35 hours to the preparation and prosecution of this action. Plaintiff's counsel has been practicing before the courts of North Carolina since 1979 and has been prosecuting Deceptive Trade Practices Cases for the Attorney General's Office since 1987. In previous Deceptive Trade Practices cases successfully handled by said counsel, this Court has awarded attorneys fees to plaintiff in the amount of \$150.00 per hour. Such an hourly reimbursement rate appears to be appropriate in this case.
17. The Court possesses personal jurisdiction over defendant and subject matter jurisdiction entitling it to enter the following judgment and permanent injunction.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that plaintiff recover from defendant the following:

- a. \$6,100.00 in victim restitution, \$2,400.00 of which plaintiff shall convey to Wilbert and Mildred Jones of Bennett, \$900 of which plaintiff shall convey to Wanda Lou Parker of Bennett, and \$ 2,800.00 of which plaintiff shall convey to Bonnie Jones of Winston-Salem, pursuant to N.C. Gen. Stat. § 75-15.1;
- b. Civil penalties of \$20,000.00 for four different violations of the North Carolina Unfair and Deceptive Trade Practices Act, N.C. Gen. Stat. § 75-1.1, pursuant to N.C. Gen. Stat. § 75-15.2;
- c. Attorneys fees in the amount of \$5,250.00, pursuant to N.C. Gen. Stat. § 75-16.1, plus all court costs and fees; and

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that defendant, together with each of his agents and employees, and regardless of whether defendant is doing so on his own behalf or on behalf of any another party, be and hereby is Permanently Enjoined and Prohibited from soliciting, offering to perform or performing any paving, re-paving, graveling, re-graveling, sealing, re-sealing or re-surfacing work on any residential driveway in the state of North Carolina. For purposes of this prohibition, driveways serving farm houses shall be deemed residential driveways even though they might be utilized in part for farming operations. The Court retains jurisdiction in this matter to ensure compliance with the foregoing.

This the 13th day of November, 2014.


SUPERIOR COURT JUDGE