

MDR-06-0152

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RECEIVED  
KANSAS ATTORNEY GENERAL  
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IN THE DISTRICT COURT OF JOHNSON COUNTY, KANSAS  
Division 2

STATE OF KANSAS, *ex rel.* )  
PHILL KLINE, Attorney General )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
MANORCARE HEALTH SERVICES )  
OF OVERLAND PARK )  
 )  
Defendant. )

'06 CV 08390  
Case No. \_\_\_\_\_

(Pursuant to K.S.A. Chapter 60)

JOURNAL ENTRY OF CONSENT JUDGMENT

NOW on this 4<sup>th</sup> day of October, 2006, Plaintiff's Journal Entry of Consent Judgment comes before the Court pursuant to K.S.A. 50-623(b). Plaintiff, the State of Kansas, *ex rel.* Phill Kline, Attorney General, appears by and through Emilie Burdette Rush, Assistant Attorney General. Defendant ManorCare Health Services of Overland Park appears by and through Shani Jones, Assistant Administrator.

Whereupon, the parties advise the Court that they have stipulated and agreed to the following matters:

1. Phill Kline is the Attorney General of the State of Kansas.
2. The Attorney General's authority to bring this action is derived from the statutory and common law of the State of Kansas, specifically the Kansas

CLERK OF DISTRICT COURT  
JOHNSON COUNTY, KS  
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Consumer Protection Act, K.S.A. 50-623 *et seq.*

3. Defendant ManorCare Health Services of Overland Park (hereinafter "Defendant ManorCare") is a Delaware corporation with a principal place of business located at 333 North Summit Street in Toledo, Ohio. Defendant has a place of business in Kansas located at 5211 West 103<sup>rd</sup> Street in Overland Park, Kansas.
4. Defendant ManorCare Health Services of Overland Park can be served with process through its registered agent, The Corporation Company, Inc. located at 515 South Kansas Avenue in Topeka, Kansas.
5. All references to Defendant herein includes acts individually, in concert, or by or through employees, agents, representatives, affiliates, assignees and successors.
6. The Court has subject matter and personal jurisdiction over this case pursuant to the Kansas Consumer Protection Act, K.S.A. 50-623, *et seq.*
7. Venue is proper in the 10th Judicial District of Kansas (Johnson County) pursuant to K.S.A. 50-638(b).
8. The Plaintiff alleges and Defendant admits it engaged in the following deceptive act or practice in violation of the Kansas Consumer Protection Act, specifically K.S.A. 50-626:

Defendant ManorCare engaged in collection efforts against Myrna Walker for the outstanding account of Evelyn Murk when Ms. Walker was not responsible for the payment of said account, a deceptive act in violation of K.S.A. 50-626 for which civil penalties and injunctive relief should be granted.

9. Defendant voluntarily agrees to this Consent Judgment without trial or

adjudication of any issue of fact or law.

10. Defendant agrees to refrain from and to be permanently enjoined from engaging in those acts and practices alleged to be unlawful and unconscionable in Paragraph Eight (8) of this Consent Judgment.
11. Defendant agrees that engaging in such acts or similar acts, after the date of this Consent Judgment, shall constitute a violation of this Order and civil penalties will be imposed for each subsequent violation.
12. The provisions of this Consent Judgment will be applicable to Defendant and every employee, agent or representative of Defendant.
13. Defendant agrees to make available and/or disclose the provisions of this Consent Judgment to its employees, agents and representatives within five days of signing the Consent Judgment.
14. Defendant agrees to be permanently enjoined from entering into, forming, organizing or reorganizing into any partnership, corporation, sole proprietorship or any other legal structures, for the purpose of avoiding compliance with the terms of this Consent Judgment.
15. Defendant agrees to pay \$1,000.00 in civil penalties and investigative fees to the Office of the Attorney General of the State of Kansas. Payment shall be made by check(s) payable to the Office of the Attorney General, and shall be delivered to the Attorney General of the State of Kansas at the time of Defendant's signing this Consent Judgment.
16. Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Consent Judgment to apply to this Court at any time for such

further orders and directions as may be necessary or appropriate for the modification of any of the provisions hereof, for the enforcement of compliance herewith, and for the punishment of violations thereof.

17. If any portion, provision, or part of this Consent Judgment is held to be invalid, unenforceable, or void for any reason whatsoever, that portion shall be severed from the remainder and shall not affect the validity or enforceability of the remaining provisions, portions or parts.
18. Compliance with this Consent Judgment does not relieve Defendant ManorCare of any obligation imposed by applicable federal, state, or local law, nor shall the Attorney General be precluded from taking appropriate legal action to enforce civil or criminal statutes under his jurisdiction.
19. The parties understand that this Consent Judgment shall not be construed as an approval of or sanction by the Kansas Attorney General of the business practices of Defendant nor shall Defendant represent the decree of such approval. The parties further understand that any failure by the State of Kansas or by the Attorney General to take any action in response to any information submitted pursuant to the Consent Judgment shall not be construed as an approval of or sanction of any representations, acts or practices indicated by such information, nor shall it preclude action thereon at a later date.

**IT IS THEREFORE ORDERED, ADJUDGED AND DECREED** that the stipulation and agreement of the parties contained herein are adopted and approved as the findings of fact and conclusions of law of the Court and any monies owed hereunder by Defendant ManorCare immediately become a judgment upon filing.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that judgment is entered against Defendant ManorCare in favor of Plaintiff in the amount of \$1,000.00.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Defendant ManorCare pay all costs associated with this action.

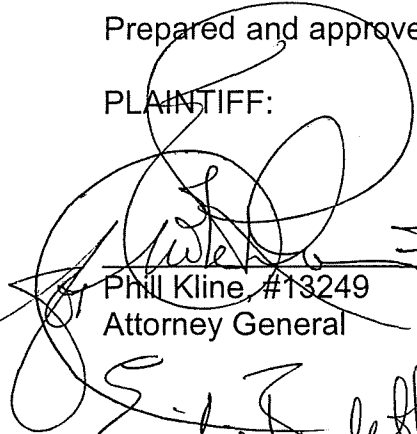
IT IS FURTHER ORDERED, ADJUDGED AND DECREED that pursuant to the Kansas Consumer Protection Act, and the provisions of K.S.A. 50-632(b), the Court hereby approves the terms of the Consent Judgment and adopts the same as the order of the Court.

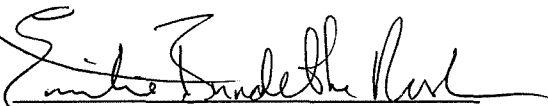
IT IS SO ORDERED.

  
\_\_\_\_\_  
JUDGE

Prepared and approved by:

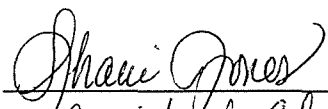
PLAINTIFF:

  
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Attorneys for Plaintiff

DEFENDANT:

  
Assistant Administrator