

FILED BY CLERK  
KS. DISTRICT COURT  
THIRD JUDICIAL DIST.  
TOPEKA, KS

2018 SEP 24 P 3:07

**IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS**

**STATE OF KANSAS, *ex rel.*** )  
**DEREK SCHMIDT, Attorney General,** )  
 )  
**Plaintiff,** )  
 )  
**v.** )  
 )  
**CHRISTINA GUIVAS** )  
**DBA CAPTURED MOMENTS BY CHRISTINA** )  
 )  
**Defendant.** )

**Case No. 2018-CV-709**  
**Division No. 7**

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

**JOURNAL ENTRY OF CONSENT JUDGMENT**

**NOW** on this date, the parties' Journal Entry of Consent Judgment comes before the Court pursuant to K.S.A. § 50-632(b). The Plaintiff, State of Kansas, *ex rel.* Derek Schmidt, Attorney General, appears by and through Sarah M. Dietz, Assistant Attorney General.

**WHEREUPON** the parties advise the Court that they have stipulated and agreed to the following:

**PARTIES, JURISDICTION AND VENUE**

1. Derek Schmidt is the duly elected, qualifying and acting Attorney General for 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 Consumer Protection Act ("KCPA"), K.S.A. § 50-623 *et seq.*
3. Defendant Christina Guivas d/b/a Captured Moments by Christina ("Defendant") is a

Kansas sole proprietorship with a principal place of business at 1101 SW Oakley Ave., Topeka, Kansas 66611.

4. “Defendant” herein means the named Defendant and its successors and assigns whether

acting through or in concert with its employees, directors, officers, owners, managers, agents, or any other persons or entities, including their subsidiaries and affiliates.

5. Jurisdiction and venue are appropriate in District Court of Shawnee County, Kansas, pursuant to K.S.A. § 50-638(a) and (b), respectively.

### **ALLEGATIONS**

6. Plaintiff alleges that the Defendant has acted as a “supplier” in Kansas, as that term is defined by K.S.A. § 50-624(l).

7. Plaintiff alleges that the Defendant has engaged in “consumer transactions” in Kansas, as that term is defined by K.S.A. § 50-624(c).

8. The Attorney General alleges that, were this matter to be litigated, the following could be proven:

That in 2015, Kansas consumer, Jennifer Perez, purchased a wedding photography package from Defendant and did not receive material elements of the package. The Defendant entered into a consumer transaction in which the consumer was unable to receive a material benefit from the subject of the transaction in violation of K.S.A. 50-627(b)(3). Additionally, the transaction entered into was excessively one-sided in favor of the supplier in violation of K.S.A. 50-627(b)(5).

### **INJUNCTIVE RELIEF**

9. The Defendant agrees to comply with all Kansas laws, statutes, rules and regulations relating to consumer transactions in Kansas, specifically, but not limited to, the Kansas Consumer Protection Act, K.S.A. § 50-623 *et seq.*

10. The Defendant shall not cause or encourage third parties, nor knowingly permit third parties acting on their behalf, to engage in practices from which Defendants are prohibited by this Consent Judgment.

11. The Defendant shall not participate, directly or indirectly, in any activity or form a separate entity or corporation for the purpose of engaging in acts or practices which are prohibited in this Consent Judgment or for any other purpose which would otherwise circumvent the spirit or purposes of this Consent Judgment.

12. The Defendant agrees that the terms of this Consent Judgment apply to acts performed on behalf of Defendant whether performed individually, in concert, or by or through its employees, agents, representatives, affiliates, and shall be binding on the assigns and successors of Defendant.

13. The parties voluntarily agree to this Consent Judgment without trial or adjudication of any issue of fact or law as a compromise settlement of all issues raised herein. The Defendant does not agree or stipulate that the Defendant has violated the Kansas Consumer Protection Act. The Defendant enters into this consent decree to resolve a disputed claim with no admission of liability.

#### **MONETARY RELIEF**

14. The Defendant agrees to issue a refund in the amount of \$1,300.00 in the form of a cashier's check, money order or other certified funds payable to The Office of the Kansas Attorney General, to be dispersed to Jennifer Perez, mailed to:

Sarah M. Dietz, Assistant Attorney General  
Office of the Kansas Attorney General  
120 SW 10th Ave., 2nd Floor  
Topeka, Kansas 66612

15. The Defendant agrees to pay the Office of the Kansas Attorney General \$1,500.00 for costs in investigating alleged violations of the Kansas Consumer Protection Act pursuant to K.S.A. § 50-632(a)(4) in a second and separate payment in the form of a cashier's check, money order or other certified funds payable to the Office of the Kansas Attorney General, mailed to:

Sarah M. Dietz, Assistant Attorney General  
Office of the Kansas Attorney General  
120 SW 10<sup>th</sup> Ave., 2<sup>nd</sup> Floor  
Topeka, Kansas 66612

16. Payment shall be made over the course of thirty-five (35) months, in the amount of \$80 per month, beginning on the 1<sup>st</sup> of October and on or before the 1<sup>st</sup> of each month following up until payment has been made in full.

#### **OTHER PROVISIONS**

17. 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.

18. 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.

19. Compliance with this Consent Judgment does not relieve Defendant of any obligation imposed by applicable federal, state, or local law, nor shall this Consent Judgment preclude the Plaintiff from taking appropriate legal action to enforce any other statutes under his jurisdiction

or from any other Federal or State agency to enforce any other federal, state, or local law under its jurisdiction.

20. The parties understand that this Consent Judgment shall not be construed as an approval of or sanction by the attorney general of the Defendant's business practices, nor shall the Defendant represent the Consent Judgment as such approval. The parties further understand and agree 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 this Consent Judgment shall not be construed to be an approval of or sanction of any representations, acts, or practices of the Defendant, nor shall any inaction by the Attorney General be considered a waiver by the attorney general of any rights under this Consent Judgment or applicable law. The parties understand that this Consent Judgment shall not be construed as an admission or proof of the Defendant's culpability for alleged violations of the Kansas Consumer Protection Act.

21. This Consent Judgment represents the entire agreement between Plaintiff and the Defendant, and there are no representations, agreements, arrangements or understandings, oral or written, between the parties relating to the subject matter of this Consent Judgment which are not fully expressed herein or attached hereto.

22. Defendant hereby represents and warrants that Defendant has had the opportunity to consult with and receive the advice of legal counsel regarding all matters relative to this Consent Judgment, including the rights and obligations of Defendant under this Consent Judgment and the consequences of breach hereunder. Defendant represents that Defendant has read the Consent Judgment and knows and understands the contents thereof. Defendant further represents and warrants that Defendant is signing this Consent Judgment as the result of her own free act, and that Defendant has not relied on any statement(s) or representation(s) of the

Attorney General or anyone acting on his behalf, except for those contained in this Consent Judgment.

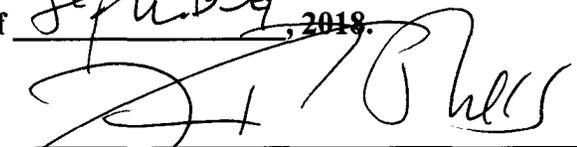
23. By signing this Consent Judgment, the representative of Defendant represents and warrants that such person is duly and legally authorized to execute this Consent Judgment on behalf of this Defendant, thus binding the Defendant to the provisions of this Consent Judgment.

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

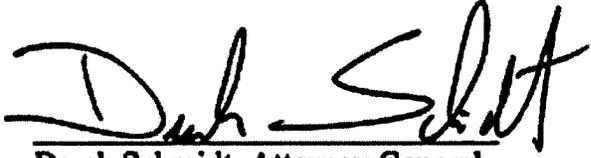
**IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that judgment is entered against the Defendant in favor of Plaintiff in the amount of \$2,800.00.

**IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that pursuant to the Kansas Consumer Protection Act, 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**, this 21<sup>st</sup> day of September, 2018.

  
\_\_\_\_\_  
**Franklin R. Theis**  
**Judge of the District Court**  
**Division Seven**

Prepared and respectfully submitted by:

A handwritten signature in black ink, appearing to read "Derek Schmidt". The signature is written in a cursive style with a horizontal line underneath the name.

Derek Schmidt, Attorney General  
Office of the Kansas Attorney General  
120 S.W. 10<sup>th</sup> Avenue  
Topeka, Kansas 66612-1597

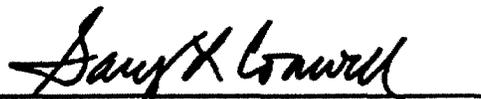


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Approved by:



Christina Guivas  
d/b/a Captured Moments by Christina



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