



Court: Wyandotte County District Court
Case Number: 2019-CV-000809
Case Title: State of Kansas Attorney General Derek Schmidt vs.
4-5-6 Chevy Trucks LLC
Type: Journal Entry of September 29, 2020 Hearing on
Motion for Default Judgment

SO ORDERED.

A handwritten signature in black ink, appearing to read 'William P. Mahoney'.

/s/ Honorable William P. Mahoney, District Court
Judge

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**IN THE DISTRICT COURT OF WYANDOTTE COUNTY, KANSAS
TWENTY-NINTH JUDICIAL DISTRICT**

STATE OF KANSAS, *ex rel.*,)
DEREK SCHMIDT, Attorney General,)
)
Plaintiff,)
)
v.)
)
)
4-5-6 CHEVY TRUCKS, LLC,)
A Kansas limited liability company,)
)
Defendant.)
)

Case No.: 2019-CV-000809

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

JOURNAL ENTRY OF SEPTEMBER 29, 2020 HEARING
ON MOTION FOR DEFAULT JUDGMENT

NOW on this date, this matter comes before the Court on Plaintiff's Motion for Default Judgment against Defendant 4-5-6 Chevy Trucks, LLC. State of Kansas, *ex rel.* Derek Schmidt, Attorney General, appears by and through counsel, Kimberley A. Davenport, Assistant Attorney General. Defendant 4-5-6 Chevy Trucks, LLC appears not and is in default.

WHEREUPON, after reviewing the Court's file and Plaintiff's Motion for Default Judgment, the Court finds the following:

1. Plaintiff filed its Motion for Default Judgment on March 10, 2020.

2. Plaintiff's Motion for Default Judgment is predicated on Defendant's failure to file an answer to the Plaintiff's Petition, which was filed on October 22, 2019. A copy of the Summons and the Petition were served on the Defendant on October 30, 2019, by U.S. Certified Mail at the Defendant's business address of 501 Scott Avenue, Kansas City, Kansas 66105, as authorized by K.S.A. 60-303(c)(1).

3. Defendant has failed to file an Answer within twenty-one (21) days after being served with process, as required by K.S.A. 60-212(a).

4. A Zoom hearing was conducted with the Defendant and the Plaintiff on June 29, 2020. At that time, the Defendant appeared via Zoom and requested additional time to hire counsel. The Plaintiff voiced no objections to the request. The Court granted additional time for Defendant to retain counsel. The matter was continued until August 31, 2020.

5. A Zoom hearing was conducted on August 31, 2020, as previously set by the Court. Plaintiff appeared via Zoom, but the Defendant failed to appear. Defendant contacted Plaintiff prior to the hearing instructing Plaintiff he had not hired an attorney yet but intended to do so. The hearing was continued again to allow the Defendant one more opportunity to respond and hire counsel.

6. A final Zoom hearing was conducted on September 29, 2020, in this matter. Plaintiff appeared via Zoom, but Defendant again failed to appear and no counsel appeared on the Defendant's behalf.

7. Defendant is not a minor or an incapacitated person.

8. Defendant is in default pursuant to K.S.A. 60-255.

9. The factual allegations set forth in the Plaintiff's Motion for Default Judgment are

adopted by the Court as its findings of fact and conclusions of law as though fully set forth herein.

IT IS THEREFORE ORDERED, ADJUDICATED AND DECREED that Plaintiff's Motion for Default Judgment is granted.

IT IS FURTHER ORDERED, ADJUDICATED AND DECREED that judgment is hereby entered against Defendant 4-5-6 Chevy Trucks, LLC and in favor of Plaintiff.

IT IS FURTHER ORDERED, ADJUDICATED AND DECREED that Defendant's acts referred to in Plaintiff's Petition are unconscionable, and as such, are in violation of the Kansas Consumer Protection Act, pursuant to K.S.A. 50-632(a)(1).

IT IS FURTHER ORDERED, ADJUDICATED AND DECREED that Defendant and their officers, directors, employees, shareholders and agents, if any, are enjoined from these acts alleged in the Petition as well as other acts or practices in violation of the Kansas Consumer Protection Act, pursuant to K.S.A. 50-632(a)(2).

IT IS FURTHER ORDERED, ADJUDICATED AND DECREED that Defendant is permanently enjoined from engaging in any consumer transactions as defined by K.S.A. 50-624(c), until such time that Plaintiff has advised the Court that full restitution has been made to the consumers in this matter.

IT IS FURTHER ORDERED, ADJUDICATED AND DECREED that Defendant pays restitution to the consumer, J.W., in the amount of \$4,000.00, through the Office of the Kansas Attorney General.

IT IS FURTHER ORDERED, ADJUDICATED AND DECREED that Defendant pays restitution to the consumer, D.K., in the amount of \$3,925.00, through the Office of the Kansas Attorney General.

IT IS FURTHER ORDERED, ADJUDICATED AND DECREED that Defendant pays investigative fees and expenses in the amount of \$2,043.75 to the Office of the Kansas Attorney General, pursuant to K.S.A. 50-632(a)(4) and K.S.A. 50-636(c).

IT IS FURTHER ORDERED, ADJUDICATED AND DECREED that Defendant pays \$60,000 in civil penalties for violations of the Kansas Consumer Protection Act as provided by K.S.A. 50-636.

IT IS FURTHER ORDERED, ADJUDICATED AND DECREED that any payments made by the Defendant in this matter should first be credited to consumer restitution, then to the investigative fees owed and finally to the civil penalties awarded.

IT IS FURTHER ORDERED, ADJUDICATED AND DECREED that Defendant pays court costs and all other costs associated with collecting, distributing and executing on any restitution or judgment made by this Court.

IT IS SO ORDERED.

THIS ORDER IS EFFECTIVE AS OF THE DATE AND TIME SHOWN ON THE ELECTRONIC FILE STAMP.

Respectfully submitted,

/s/ Kimberley A. Davenport
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