

STATE OF KANSAS

# 1977 ANNUAL REPORT

OFFICE OF THE ATTORNEY GENERAL  
Consumer Protection Division



CURT T. SCHNEIDER  
ATTORNEY GENERAL

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PREPARED IN ACCORDANCE WITH THE PROVISIONS OF THE  
KANSAS CONSUMER PROTECTION ACT

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January 1, 1978

AG-491P



STATE OF KANSAS

## Office of the Attorney General

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**Curt T. Schneider**  
Attorney General

January 9, 1977

HONORABLE ROBERT F. BENNETT, GOVERNOR  
AND MEMBERS OF THE 68th LEGISLATURE

For the third consecutive year, I am complying with the Kansas Consumer Protection Act and am issuing my office's annual report on the activities of the Consumer Protection Division during the calendar year 1977. More than 5,000 Kansans utilized the Consumer Protection Division during the past year which signified a 35.7 percent increase over the previous year. Of that figure, more than 80 percent of the complaints were closed or settled during 1977.

Also, the division initiated new public information and educational programs during 1977 which should be of great assistance to the people of Kansas. These programs will be more fully discussed in the main body of this report.

To date, the Consumer Protection Division operates with five assistant attorneys general, two special agents, two law clerks, and two undergraduate interns. These interns are part of two operative programs with Washburn University and the University of Kansas.

During 1978, the division will continue its strong enforcement of the Kansas Consumer Protection Act.

Should further information be desired, please do not hesitate to contact me or any member of my staff.

Very truly yours,

CURT T. SCHNEIDER  
Attorney General

CTS:ts

## INTRODUCTION

On July 1, 1978, the Consumer Protection Division will complete the 15th year of its existence. Since 1963, the division has grown many hundreds of times, but the sharpest increases came during 1977. A former employee of the Attorney General's Office once stated that the division received approximately fifty complaints during the first six months of its existence.

By 1972, more than 2,000 Kansans utilized the Consumer Protection Division. This number increased to more than 3,800 by 1975. During 1977, a total of 5,096 Kansans, some of whom came from each of the state's 105 counties, filed consumer related complaints seeking assistance under their rights within the Kansas Consumer Protection Act.

To date, the Consumer Protection Division appears to be the fastest growing of the five divisions within the Kansas Attorney General's Office.

The 35 percent increase in complaints during 1977 should not be attributed to a drastic increase in consumer fraud or white collar crime within the state of Kansas. Instead, the increase represents the success of a well planned and organized educational program throughout Kansas on the subject of consumer protection.

During 1977, the Attorney General or representatives of his staff, delivered speeches to more than 250 audiences throughout Kansas. These groups included senior citizen

organizations, chambers of commerce, civic organizations, high schools, and colleges, along with associations for the deaf and blind.

In early 1977, the Attorney General targeted senior citizens for special attention by the Consumer Protection Division. Historically, senior citizens are the most common victims of fraudulent and bunco schemes, including home repair, door-to-door selling, bank frauds, the age old pigeon drop, along with many other categories of schemes. In March, 1977, the Attorney General toured ten counties in northwest Kansas under the sponsorship of the Northwest Kansas Area Agency on Aging. For one week, he appeared before ten senior citizen organizations and spoke to more than 1,000 persons to explain the Consumer Protection Division. All of these meetings included a questions and answer session where senior citizens were allowed to pose questions and discuss problems about consumer protection and other state matters. During July, the Attorney General appeared before senior citizen groups in the north central part of Kansas and made similar appearances in northeast Kansas during early November. In December, the Attorney General spoke before senior citizen groups in Wyandotte and Leavenworth Counties.

By the end of 1977, the Consumer Protection Division had covered the northern half of Kansas with speeches on

consumer protection to senior citizens. During 1978, plans are being made to make similar appearances throughout southern Kansas.

During the fall of 1977, the Attorney General's Office published a much needed booklet entitled "Consumer Protection in Kansas". To date, the division has received requests for or distributed approximately 5,000 copies.

Included in the booklet is information about the forty most common consumer frauds in Kansas, along with detailed explanation of the Kansas Consumer Protection Act, Small Claims Court, and the procedures to be followed in filing complaints. This booklet will be provided to any organization or person who requests a copy.

The Attorney General's Office continued its distribution of a thirty minute film entitled "On Guard". The film contains actor-portrayed stories of four common bunco schemes. The film is loaned out free of charge to any organization who desires.

The Attorney General's Office issued approximately seventy-five consumer alerts during 1977 warning Kansans of possible fraudulent activities within the State. During 1977, the Consumer Protection Division concluded several projects, investigations, and lawsuits that had been pending for some time. In May, 1977, more than 500 Ness County residents received delivery of the long awaited Ness County historical book. The

McPherson County company went out of business due to lack of funds in 1975 before completing the book. The Attorney General's Office was asked by many citizens to assist in the book's completion. Working with the cooperative efforts of a bonding company, along with the one time owners of the firm, the book was completed and delivered. This particular case represents more Kansas consumers than any other action undertaken by the Attorney General's Office in the division's history.

During the summer of 1977, the Attorney General's Office settled its lawsuit with Merchantile Mortgage Company of St. Louis which reflected a \$500,000.00 recovery to assist several hundred Kansas consumers in completing projects for a lake side lot development near Topeka. This half million dollar settlement represented the largest dollar recovery in the division's history.

Several dozen Kansas farmers received refunds of nearly \$34,000.00 as a result of their unsatisfactory dealings with a metal building company. Others received refunds totaling \$75,000.00 as result of their dissatisfaction with an estate planning operation.

On the other hand, many Kansans filed small complaints with the office, mainly on mail order items. Some of these complaints were for only a few dollars. Others were for as much as \$1,000.00. More than 90 percent of these mail order

complaints were resolved to the customer's satisfaction.

The Attorney General's Office worked with hundreds of Kansas businessmen and civic organizations who contacted the office requesting information on how they should best comply with the law. Many other businessmen requested the office's assistance on problems that they were experiencing in ordering and receiving merchandise. An insurance association experienced severe problems during the summer of 1977 with the company who was selling advertisements in a booklet for their association. The Consumer Protection Division investigated the company with whom they were doing business and was able to resolve the complaints to the association's satisfaction.

These are just a few of the many cases investigated during 1977 by the Consumer Protection Division. It is our sincere hope that 1978 will reflect even greater results for the people of Kansas through their Consumer Protection Division. We feel that much has been accomplished. Much more remains to be done.

STATE OF KANSAS, ex rel.,  
CURT T. SCHNEIDER

vs.

FRANK DILLARD, SR.

A Petition was filed on September 16, 1976, in Miami County District Court alleging that defendant offered and sold his services for home repairs at unconscionable prices to elderly consumers. Defendant solicited door-to-door sales without providing consumers with written notice of their right to cancel the contract within three business days. Defendant obtains one-third to one-half of the contract price, telling the consumer he will use the money to purchase the materials. In fact, defendant charges the materials at local stores and refuses to reimburse after he has obtained payment. The Petition requests recovery of actual damages for consumers and that defendant be permanently enjoined from selling his services as a carpenter and home repairman in the State of Kansas. Defendant was served with process and has appeared in Court and has made a few payments to consumers for work that he did not complete or charged people for but did not even commence the requested repairs.

STATE OF KANSAS, ex rel.,  
CURT T. SCHNEIDER

vs.

BENNIE SCHUCK

A lawsuit was filed against All Seasons Basement Waterproofing Company and Benny Schuck, its president and shareholders, alleging misrepresentations in the sale of basement waterproofing services. Approximately five hundred complaints have been filed with the Attorney General's Office against this now defunct company. The Petition requests that the corporate veil be pierced and Benny Schuck be held personally liable. The Petition requests a permanent injunction and restitution and penalties in excess of \$350,000.00. Suit was dismissed because the defendant has left his home state of Indiana and cannot be found by either his attorneys or authorities in Indiana. We have, therefore, dismissed this suit without prejudice so that we may refile again should the defendant be located.

STATE OF KANSAS, ex rel.,  
CURT T. SCHNEIDER

vs.

EDUCATIONAL SCIENTIFIC  
PUBLISHERS (A Trust), et al.

This lawsuit was filed on May 23, 1975, against defendants who sold courses in trust creation. From the course materials, Kansans were told they could create family trusts to avoid estate taxes and probate costs. The Internal Revenue Service finds these trusts illusory; Educational Scientific Publishers is not registered under the Kansas Proprietary School Act as required; and defendants failed to provide purchasers with notice of their right to cancel the contract within three business days. The Petition also alleges that defendants returned to various citizens of the State of Kansas \$75,970.00.



STATE OF KANSAS, ex rel.,  
CURT T. SCHNEIDER

vs.

MODULAR STEEL STRUCTURES,  
INC., et al.

A petition for an injunction, civil penalties and other relief was filed in Shawnee County District Court on October 17, 1975, against the manufacturer of steel buildings and its dealers. During 1973 and 1974, the dealers received more than three hundred orders from Kansas farmers for a metal shed known as the "Wonder Building". During these transactions the dealers received deposits ranging from \$1,000 to \$5,000 from Kansas farmers. Once the sales companies received the deposit it was split on a 65/35 basis with the manufacturer -- in other words, 35% was sent to the manufacturer. The remaining 65% was retained by the sales company as its commission. The manufacturer was unable to deliver many of the buildings because of the steel shortage and the large number of buildings sold by the dealers in Kansas and elsewhere. Those farmers who did receive a building were forced to pay an additional cost of several thousand dollars above the contract price. Modular Technology of Chicago, the manufacturer, then filed a petition for voluntary bankruptcy before filling most of the Kansas orders. The manufacturer's plan of arrangement was approved by the Illinois Bankruptcy Court, before which our office appeared after our suit had been filed. Under the plan, the farmer was given the option of receiving that portion of the deposit the manufacturer never delivered or delivery of a building at an increased price. This office then assisted Kansas complainants in filing bankruptcy claims against the manufacturer and proceeded against the dealers. Along with the legal action taken, this office assisted a number of consumers in obtaining substitute buildings from other manufacturers at a reduced price, saving Kansas farmers in excess of \$50,000 and assuring that their deposit was not lost.

On May 26, 1977, a consent judgment was entered into with Modular Steel Structures, Inc. of Kansas City, Kansas, the largest sales company. The settlement included in excess of \$34,000.00 in cash, which has already been distributed by this office to Kansas consumers, and an assignment of 25% of the sales companies' bankruptcy claim against the manufacturer. The 25% assignment which should total over \$150,000.00 will be received by this office to be dispensed to the consumers. The decree also provides that Modular Steel Structures, Inc. shall never again do business in the State of Kansas.

This office is continuing to pursue the action against the two other sales companies involved; Modular Steel Structures Corporation of Montana and D'Mar, Inc. of Texas, and their officers. Both these companies are no longer doing business.

STATE OF KANSAS, ex rel., vs. THE KEY CHEMICAL COMPANY, INC.  
CURT T. SCHNEIDER AND STANLEY H. BLOCK

A petition alleging violations of the Consumer Protection Act was filed on September 15, 1976. Defendants, based in Maryland, solicited sales of chemical vegetation and weed killers over the telephone. Defendants do not inform consumers of the composition of the chemicals. Furthermore, the price of these chemicals is \$700.00 per acre. Defendants also ship and then bill farmers for chemicals farmers never ordered. A subpoena was issued to defendants requesting certain information to aid the Attorney General in his investigation of alleged violations of the Consumer Protection Act; defendants refused to answer said subpoena. Such refusal is itself a violation of the Consumer Protection Act.

The Key Chemical Company, Inc. and Stanley H. Block entered a consent decree to not to do business in the State of Kansas in the future, and returned monies to Kansas consumers who had filed a complaint with this office.

STATE OF KANSAS, ex rel., vs. JAMES W. BERRY  
CURT T. SCHNEIDER

Case originated in 1969. A permanent injunction was granted prohibiting defendant from moving houses in Kansas. Defendant again violated the injunction and other orders of the Court and was found guilty of contempt. The Court has ordered defendant sentenced to jail but is permitting him to remain free providing he specifically performs two contracts. Should defendant violate the order or injunction again, the State of Kansas is ordered to bring felony criminal charges against him.

STATE OF KANSAS, ex rel., vs. CHARLES B. JENKINS,  
CURT T. SCHNEIDER d/b/a JENKINS MOTORS

Case filed in the District Court of Linn County, Kansas. The petition alleged that the defendant engaged in acts of promise and concealment, omission of material fact with the intent that the plaintiffs rely thereon to their damage in the purchase of a used automobile and further that the defendant's conduct complained of is a violation of the Kansas Consumer Protection Act and the Common Law of the State of Kansas.

Prayer requested that the defendant repurchase the automobile sold to the complaining consumers and that the defendant pay any and all court costs and the defendant and his employees be enjoined and restrained from engaging in any practices which were violations of the Kansas Consumer Protection Act in the sale of motor vehicles in the future.



The defendant is no longer engaged in business and the lawsuit was dismissed in June, 1977, for want of prosecution.

STATE OF KANSAS, ex rel.,           vs.           ROBERT P. SPITLER, MARGARET  
MARGARET JORDAN and                 SPITLER, PAUL E. WELLS,  
CURT T. SCHNEIDER                   BERT NELIN, WILLIAM BUTTS,  
                                       EDWARD TIPTON, a/k/a EDWIN  
                                       TIPTON, and PERFORMANCE  
                                       ENTERPRISES

In April of 1976, the Johnson County District Attorney's Office filed a petition for an injunction, restraining order, and other relief against defendants. On August 19, 1976, the Attorney General was allowed to intervene in the lawsuit to represent Kansas consumers who were not residents of Johnson County.

The lawsuit alleges that defendants violated the Kansas Consumer Protection Act in selling vending machines and distributorships by misrepresenting that locations for the machines would be selected by experts, that the machines would sell a certain amount per day, and that the distributorships would be a secure investment. The suit further alleged that the sales were unconscionable transactions in that the machines' price grossly exceeded the price at which similar machines were readily available in similar transactions.

The defendant Performance Enterprises, Inc. has been adjudicated as bankrupt but a motion to enjoin further proceedings against the individual defendants was denied by the bankruptcy court in Florida. The individual defendants have failed or refused to answer interrogatories submitted by plaintiff and further proceedings are contemplated to compel responses.

STATE OF KANSAS, ex rel.,           vs.           INTERNATIONAL MAGAZINE SERVICE  
CURT T. SCHNEIDER                   OF COLORADO, INC. AND ROBERT  
                                       A. MAKATURA

On September 28, 1977, a consent judgment was filed and approved by the Court in which International Magazine Service of Colorado and Robert A. Makatura agreed that in any future solicitations for purchases of magazine subscriptions they would, among other things, not misrepresent the cost of the magazines, misrepresent that the company is registered with or approved by a government authority or organization such as the Better Business Bureau or misrepresent the reason for inquiries about the prospective buyer's occupation, residency or age. The consent judgment, which was accepted by the Attorney General in lieu of instigating a lawsuit, also requires the respondent to otherwise fully comply with the Consumer Protection Act, including the provisions regarding the right to cancel door-to-door sales within three days.

STATE OF KANSAS, ex rel., vs. N.C.B. INDUSTRIES, INC.,  
CURT T. SCHNEIDER WINFRED NICELY, DONALD COLLINS,  
HAROLD CERNE, JOSEPH H. GRIZZLE,  
BOBBIE BLEWER, RAY IRELAN,  
ROBERT WINTERS, ROBERT MURPHY,  
and CARL FISHER

The petition in this case, filed June 7, 1977, alleges that defendants have sold to Kansas consumers distributorships for weather beacons, a severe weather warning device through misrepresentations concerning the device's effectiveness and the training and services to be provided to the distributor. The lawsuit also alleges that the transactions were unconscionable as being of no material benefit to the consumers and in violation of other provisions of the Consumer Protection Act.

Some of the defendants have not been located and served with process but the other defendants have agreed to the entry of a consent judgment in which the company, which is insolvent, agrees to cease business and the individual defendants agree to not engage in the sale of distributorships through any deceptive acts or practices and to pay restitution to the complainants of approximately twenty-five percent of the money paid for the distributorships.

STATE OF KANSAS, ex rel., vs. PHILADELPHIA AND NATIONAL  
CURT T. SCHNEIDER TRADE, INC.

A petition for civil penalties, restitution and other relief was filed in this case on November 15, 1977. The defendant sells a business opportunity involving the operation of pantyhose vending machines. The lawsuit alleges that in selling the distributorships the company violated the Consumer Protection Act by engaging in "bait and switch" tactics and by misrepresenting that buyers will receive an exclusive territory for operation of the machines so that they would vend a specific number of sales per day. The suit also alleges that the sales transactions are unconscionable as being excessively one-sided and of no material benefit to the consumer.

Service of process on the petition and attached interrogatories has not yet been returned.

STATE OF KANSAS, ex rel., vs. AMERICAN COUNCIL OF THE BLIND,  
CURT T. SCHNEIDER INC. and ARLISS HENDERSON  
MANAGEMENT COMPANY, INC.

Although the petition in this charitable solicitations case was filed in February of 1976, the defendants were not served until March of 1977. The defendants have answered denying the allegations in the petition that the operation of thrift stores in Kansas City is covered by the Kansas laws regulating solicitations of charitable

contributions. The statutes require charitable organizations soliciting contributions in Kansas to register and file annual reports with the Secretary of State. The statutes also require professional fund raisers to register, like a bond, and file a copy of the contract with the charitable organization. The laws prohibit the charity from giving more than twenty-five percent of its gross receipts to the professional fund raiser. The defendants have also alleged in their answer that the statutes are unconstitutional.

Defendants have failed to respond to interrogatories and requests for production of documents but the Attorney General's Office is attempting to have the legal issues resolved within the near future.

STATE OF KANSAS, ex rel.,  
CURT T. SCHNEIDER vs. FIRESTONE PHOTOGRAPHS, INC.  
DANIEL FIRESTONE and  
INTERNATIONAL PHOTO SUPPLY, INC.

In February, 1976, the petition was filed in Shawnee County District Court. It alleged that defendant Firestone Photographs committed fraud and misrepresentation to Kansas citizens who purchased distributorships.

Firestone Photographs refused to sign a consent decree worked out last winter.

On November 9, 1977, an amended petition was filed adding International Photo Supply, Inc. as a defendant. It is alleged that International Photo Supply, Inc. is an alter-ego of the earlier defendants and has engaged in the same and/or similar practices as the other defendants.

The case is presently in the formal discovery stages.

STATE OF KANSAS, ex rel.,  
CURT T. SCHNEIDER vs. ART CARON

On March 2, 1977, a petition for injunction and restitution was filed against Art Caron for committing a deceptive and unconscionable act in the sale of adding machines. The suit was dismissed with prejudice after Mr. Caron made full restitution to the consumer involved.

STATE OF KANSAS, ex rel.,  
CURT T. SCHNEIDER vs. BILL TEAGUE

A petition for injunction, civil penalties and restitution was filed on April 18, 1977, against Bill Teague in Elk County District Court. Mr. Teague was accused of committing deceptive and unconscionable acts in the sale of home repairs. A default judgment was entered on June 10, 1977, in the amount of \$4,964.95.

A writ of execution was issued on July 22, 1977, but was returned unsatisfied.

STATE OF KANSAS, ex rel., vs. LOUIS K. BOHR and BONDED  
CURT T. SCHNEIDER MOBILE HOME BROKERS, INC.

In a petition for damages filed August 17, 1977, the defendants were accused of committing deceptive acts in representing themselves as a broker who sells mobile homes for others. It was alleged that after the sale the defendants refused to forward the sales receipts to the seller.

Defendants, through their attorney, have consented to the entering of judgment against them. Partial restitution has been made.

STATE OF KANSAS, ex rel., vs. THOMAS ALEX SHANKS and  
CURT T. SCHNEIDER SHANKS IMPORTS AND PARTS, INC.

A Petition for Injunction, Restitution and Civil Penalties was filed on December 3, 1976. Defendants were served on February 14, 1977. Defendants were accused of fraudulently representing they were qualified to repair foreign automobiles. It was also alleged they charged consumers for repairs not performed and parts not replaced. A default judgment was entered against defendants on November 23, 1977. That judgment has not been satisfied.

On December 15, 1977, the Attorney General's Office intervened in an action against defendants similar to the one above. A judgment is expected in January, 1978.

STATE OF KANSAS, ex rel., vs. FASHION WORLD, INC. and  
CURT T. SCHNEIDER MARTIN H. KELLY,

On May 18, 1977, a lawsuit was filed against the Utah defendants alleging they engaged in deceptive and unconscionable acts in the course of selling exclusive territories and distributorships for womens' clothing to Kansas residents. Defendants have been served and the case is presently in the discovery stages.

The help of the U. S. Postal Inspector has been solicited.

STATE OF KANSAS, ex rel., vs. TRIPLETT, INC., and  
CURT T. SCHNEIDER LAWRENCE D. TRIPLETT

After a lengthy undercover investigation by this office, a lawsuit was filed against the defendants for making unnecessary repairs to automobiles. Defendants operate a chain of service stations on Kansas Interstate 70.

The case was dismissed after the cause of action had been resolved to the satisfaction of all the parties and defendants made restitution in the amount of \$3,577.27.

STATE OF KANSAS, ex rel., vs. MARION ADAMS, RICHARD HAITBRINK  
CURT T. SCHNEIDER and THE SPORTS CAR SHOPPE, LTD.

A Petition was filed against the defendants on March 30, 1977. It was alleged that defendants sold the car as one with only minor damage. Also, defendants are also accused of failing to have the automobile inspected pursuant to K.S.A. 8-1854 and refusing to lawfully assign the title of the car to the consumer as required by K.S.A. 8-135(c)(7).

The suit is presently in the discovery stage with negotiations of a possible settlement being considered.

STATE OF KANSAS, ex rel., vs. MIDWAY MOTOR COMPANY, INC.  
CURT T. SCHNEIDER

This lawsuit was filed on December 12, 1977, and alleged defendant attempted to sell an automobile with a 301 C.I.D. engine as one with a 350 C.I.D. engine. After the consumer placed a \$500.00 deposit on the car she learned the exact engine size. After defendant refused to return the \$500.00 the lawsuit was filed seeking restitution and civil penalties.

Defendants have been granted additional time to answer the lawsuit by the Court. An answer is expected in January, 1978.

STATE OF KANSAS, ex rel., vs. JAMES H. BURGESS, d/b/a  
CURT T. SCHNEIDER J. B. MOTORS

A consent judgment will soon be entered in this case. Defendant has violated the Motor Vehicle Information and Cost Savings Act. Furthermore, the defendant will be found to have violated the Kansas Consumer Protection Act and as a result of that violation, the defendant will pay to the State of Kansas \$500.00, payable to the Attorney General's Court Cost Fund. In addition, the defendant will be enjoined from further similar violations of the Kansas Consumer Protection Act.

STATE OF KANSAS, ex rel., vs. RICHARD SMITH, W. C. ADAMS,  
CURT T. SCHNEIDER d/b/a INTERNATIONAL MAIL ORDER  
COMPANY, and INTERNATIONAL  
SEWING MACHINE COMPANY

A petition requesting a permanent injunction and recovery of actual damages and civil penalties was filed on December 30, 1976, in Shawnee County District Court. Defendants run "contests" in



which all entries but the name drawn are "second place winners" who receive a \$200.00 check toward the purchase of a \$299.95 sewing machine. In fact, the retail value of the machine is not \$299.95 and the sole purpose of the contest is to obtain names of individuals who are all contacted as "second place winners". Defendants also send brochures and letters to Kansas residents stating they have been computer selected to participate in a test being conducted by the company. Enclosed is a \$200.00 check toward the purchase of a \$269.95 cookware set. As with the sewing machines, the stated retail value of the cookware is grossly inflated so that the enclosed check is of no intrinsic value.

The petition has been amended to include as defendants IMOCO, Inc., and Don R. Ball, who is president of IMOCO, Inc. Don R. Ball is the former business manager for W. C. Adams. This corporation, which was incorporated in Texas in February of 1977, is using the same brochure material as International Mail Order with only a name change and selling the same cookware; therefore, they were added to the suit because their method of operation is the same and the misrepresentation is the same. This office has attempted to obtain a hearing on its Motion for Preliminary Injunction; however, the hearing that was scheduled in December of 1977 has been continued until February of 1978, in view of the fact that IMOCO, Inc. and Don R. Ball have indicated a willingness to change their advertising brochure to our satisfaction, and also because of inconvenience in obtaining witnesses for the December date.

The State of New Mexico has obtained a preliminary injunction against W. C. Adams, which may be the reason why Mr. Adams is not currently sending out any mailings. It appears that it was not possible for him to remove New Mexico addresses from his mailing list and leave all others on the list; therefore, all mailing has ceased while a new computerized system is implemented to include states other than New Mexico. As long as this situation continues, it is unnecessary for this office to obtain a preliminary injunction. Thus, there have been discussions with defendants' counsel concerning the possibility of discussing the motion for preliminary injunction and proceeding with a trial on the merits early in the Spring.

STATE OF KANSAS, ex rel.,  
CURT T. SCHNEIDER

vs.

BROWNING SEED, INC., JEANE  
BROWNING, NEW MEXICO SEEDS,  
INC. and KENNETH YOUNG

The case is filed in the U. S. District Court in Topeka. This office filed suit on the basis of misrepresentation in the sale of barley seed to a wholesale seed distributor who then distributed the seed to individual farmers who were damaged. The seed sold was Will barley seed and Tambar barley seed, both of which were represented to be spring barley seed, when in actuality they are winter barley seeds. At this point in time, the defendants have

answered and denied the misrepresentation and denied that farmers were damaged by use of their seed.

Counsel have met to discuss various aspects of the case and are currently engaged in informal discovery processes in order that the defendants may be aware of the full extent of the State's case. In the meantime, a number of private lawsuits involving some of the same individuals that are complainants in our suit have been filed in Southwestern Kansas against of the co-ops that sold the barley seed. These suits may have an effect on the conduct of our litigation, and thus we are in touch with the attorney who represents several of these plaintiffs.

STATE OF KANSAS, ex rel.,  
CURT T. SCHNEIDER vs. LOCATIONS, LTD, INC.  
STEPHEN SHANNON, MICHAEL HELLER,  
ROCKY L. HENDRICKSON, SHAUNA L.  
HENDRICKSON, BILL MCCLAIN, AND  
BILL CANTRELL

A petition for a permanent injunction and recovery of actual damages and civil penalties was filed December 27, 1976. The defendants held promotional meetings in Kansas to enroll consumers as distributors of "EI-5" fuel additive. Defendants falsely represented that "EI-5" causes a molecular change in petroleum products, has been tested by independent agencies and affords motor vehicle users an 18-25% reduction in fuel consumption. EPA tests show no fuel savings with "EI-5". Defendants also grossly exaggerated the income distributors will earn by selling "EI-5".

The plaintiff has been unable to get service of process on several defendants; Michael Heller, Rocky Hendrickson and Shauna Hendrickson. The case was dismissed as to Bill McClain and Bill Cantrell. The office is in the process of receiving a judgment against the corporate defendant and Stephen Shannon.

STATE OF KANSAS, ex rel.,  
CURT T. SCHNEIDER vs. WILLIAM E. JOHNSON

This is a case of fraudulent misrepresentation in the sale of land. Defendant made representations to potential purchasers regarding the number of houses that could be built on the land, access to the land, and city improvements to be made, all of which turned out to be false. When the buyers discovered the misrepresentations they refused to sign the contract but defendant would not return their \$500.00 in earnest money. We are suing for the earnest money and a \$2,000 civil penalty. Defendant has filed his Answer and responded to interrogatories. Depositions of the defendant and the State's chief witnesses are being arranged for later this month.

STATE OF KANSAS, ex rel.,  
CURT T. SCHNEIDER

vs.

SPIRIT OF AMERICA, INC.  
and LOWELL SMITH

A petition was filed in Wyandotte County District Court on November 9, 1976, alleging that in selling an ice cream parlor franchise defendants represented that the buyers would receive supervision and training, a 100% turnkey operation, financing, discounts on dairy products from wholesalers, and the ability to purchase products on credit from certain companies. Defendants also misrepresented the number of retail franchise stores they had in operation. Certain inventory and equipment that the purchasers paid for has never been delivered by defendants. The petition asks for monetary damages, civil penalties, investigation expenses and an injunction permanently restraining defendants from making the described misrepresentations. Defendants have been served.

The suit is in the process of being dismissed to allow the complainants to utilize other theories of recovery outside of the Kansas Consumer Protection Act.

STATE OF KANSAS, ex rel.,  
CURT T. SCHNEIDER

vs.

SHELDON HINEMAN, JOHN ALMA,  
CINDY WILSON; d/b/a CASINO CLUB

Petition was filed September 23, 1976, in Shawnee County District Court of Kansas. Petition alleged that the defendants were promoting certain puzzle type games and they contacted citizens in the State of Kansas offering citizens to participate in games. Due to certain suspicions of members of the Attorney General's staff a subpoena was issued and the defendants failed to reply to the subpoena and it was prayed that the defendants be enjoined and restrained from advertising or soliciting entries in their contests from Kansas residents. It was also requested that defendants be required to pay the costs of the action.

On August 23, 1977, the State of Kansas obtained a default judgment. The defendants are permanently enjoined from doing business in the State of Kansas.

STATE OF KANSAS, ex rel.,  
CURT T. SCHNEIDER

vs.

DEL CORONADO, INC., et al

This suit was filed by the Consumer Protection Division in conjunction with the Jefferson County Attorney in January, 1977. The petition alleged that the named defendants, the past and present developers of Lake Ridge and Lake Shore Estates, Perry, Kansas, had improperly operated both the water and sewer districts of the respective developments. The Attorney General's Office sought an accounting of all monies received by the defendants from the operation of the water and sewer districts.

After initiation of this suit, an unnamed party, Mercantile Mortgage Company of St. Louis, Missouri, requested that the matter be negotiated. Mercantile Mortgage Company had been the primary lending institution for the past and present developers of Lake Shore and Lake Ridge Estates and, therefore, held a substantial financial interest in any such matters relating to the defendants in this lawsuit.

The Attorney General's Office, specifically the Consumer Protection Division, had received nearly four hundred (400) formal complaints from Kansas citizens regarding the mentioned lake developments. Accordingly, the requested negotiations centered not only upon the problems with financial status of the water and sewer districts, but also the lack of overall completion of Lake Shore and Lake Ridge Estates.

After nine months of negotiations, an amicable settlement was reached in the early part of September, 1977. The main thrust of said settlement was that Mercantile Mortgage Company would provide approximately five hundred thousand dollars (\$500,000.00) toward the completion of Lake Ridge and Lake Shore Estates, and in turn, the Attorney General's Office and Jefferson County Attorney would dismiss the present lawsuit and forego any further rights to sue based upon any violations of Kansas law that existed at that time.

The above-described settlement will fulfill the representations made to purchasers of lots at the resort developments of Lake Ridge and Lake Shore Estates. This settlement was the largest monetary award in the history of the Consumer Protection Division.

STATE OF KANSAS, ex rel.,  
CURT T. SCHNEIDER

vs.

DON SCHMIDT MOTORS

An action was filed by the Consumer Protection Division of the Attorney General's Office against Don Schmidt Motors of Wichita, Kansas. The petition alleged that the defendant, and/or its agents, had made certain misrepresentations during the sale of a new automobile to a Kansas consumer, thereby violating provisions of the Kansas Consumer Protection Act.

After completion of the discovery stage of this lawsuit, which included written interrogatories and oral depositions, the case against the defendant was dismissed with prejudice by the Attorney General's Office at the request of the complaining consumer.

STATE OF KANSAS, ex rel.,  
CURT T. SCHNEIDER vs. CHAS INDUSTRIES, INC., et al

This case involving alleged misrepresentations in the solicitations of consumers to enter into distributorships for defendants' products, A,I.D. tire sealant and Atlasta cleaner, was concluded with entry of consent judgment.

The consent judgment called for restitution totalling \$23,000.00 to consumers and enjoined defendants from advertising, offering for sale or selling distributorships or dealerships for their products in Kansas. The defendants were also enjoined from making any representations in violation of the Consumer Protection Act. The judgment has been only partially satisfied since the defendant corporation is insolvent.

STATE OF KANSAS, ex rel.,  
CURT T. SCHNEIDER vs. CHARLOTTE STITHEM

The Office of the Attorney General initiated an investigation in Phillips County after receiving complaints from individuals who had paid for but never received fertilizer and other agricultural products. Our investigation culminated in the filing of a charge of felony theft against the defendant in Phillips County. Trial was held on January 20, 1977 in Phillipsburg, the case being prosecuted by an Assistant Attorney General. A guilty verdict was returned and the defendant was sentenced to a term of not less than one year and no more than ten years. The defendant has been released on bond pending an appeal. Similar charges in Rooks County are pending.

STATE OF KANSAS, ex rel.,  
CURT T. SCHNEIDER vs. HORIZON ENTERPRISES, INC.  
d/b/a EMERGENCY INFORMATION,  
WILLIAM EDWARDS, President  
of HORIZON ENTERPRISES

This suit was filed on January 25, 1977. The Petition alleges the defendants advertised a distributorship for emergency medical information in the Wichita Eagle-Beacon. The complainant responded to said advertisement and was contacted by the defendants. The defendants stated the complainant would receive a distributorship which would sell at forty locations selected and set up by defendants medical information cards to be dispensed and made available by display racks and the complainants would make a profit on each emergency card sent to the defendants.

The prayer requests that the Court render null and void all contracts and transactions which were entered into in violation of Kansas law and permanently enjoin and restrain the defendants from conducting any deceptive consumer sales practices in the State of Kansas, \$2,000 per violation and recovery of the \$6,600 purchase price paid to the defendants.

It should be noted the defendants have not been served and in all probability the suit will be dismissed without prejudice due to the fact the whereabouts of the defendants is unknown to this office and to the authorities in California, who also have filed an action against the defendants.

STATE OF KANSAS, ex rel.,  
CURT T. SCHNEIDER

vs.

COCKRELL MUSIC CITY, INC.

The suit against Cockrell Music City, Inc. was filed on December 2, 1977, and a copy of the Summons and Petition were served on December 3, 1977. The Petition alleges that the defendant sold an organ with a mis-stated suggested retail price and/or list price to the complainant. Also, the defendant discussed the purchase price and consummated the contract purchase at a location other than defendant's regular place of business without a three-day cancellation clause in the contract.

The prayer requests the contract be voided and all payments made under the security interest agreement be repaid to the complainant and that complainant be reimbursed \$4965.00, the trade-in or market value of the complainant's organ.

STATE OF KANSAS, ex rel.,  
CURT T. SCHNEIDER

vs.

GLEN BORCHERS

Case has been filed in District Court of Barton County, Kansas. Petition alleges that the defendant by means of false promise, deception, misrepresentation, false pretenses, concealment and omission of material fact did induce the complaining consumers to issue a check in the amount of \$2,000 payable to his company in the hope of reaping some return on their investment. It further alleges that the conduct of the defendant is a violation of the Kansas Buyer Protection Act.

The prayer requests that the defendant be required to make restitution to complaining consumers. Further that the defendant be required to pay court costs.

This action is still pending due to the serious illness of the defendant. It is expected that the suit will be resolved within the next 30-60 days.

STATISTICS FOR JANUARY 1, 1977, THROUGH DECMEBER 31, 1977

CASES RECEIVED . . . . .	5,096
CASES CLOSED . . . . .	4,278
MONEY RETURNED TO KANSAS CONSUMERS . . .	\$906,909.65

Closing Code

1. Inquiry or information only . . . . .	1,106
2. Referred to private attorney . . . . .	124
3. Potential violator out of business . . . . .	36
4. Merchandise repaired, replaced or delivered . .	2,162
5. Referred to County Attorneys . . . . .	59
6. Referred to other agencies . . . . .	179
7. Referred to Small Claims Court . . . . .	56
8. No Jurisdiction . . . . .	162
9. Unable to locate violator . . . . .	78
10. No basis . . . . .	212
11. Unable to satisfy complainant - further action not warranted . . . . .	51
12. Voluntary assurance of discontinuance . . . . .	49
13. Court cases closed . . . . .	4

CONCLUSION

It is humanly impossible to fully explain the overall procedure of the Consumer Protection Division in this relatively small report. We are sure that members of the Kansas Legislature may have questions regarding our operation and conduct under the Kansas Consumer Protection Act. We encourage these parties to contact us at any time should they have questions or should their constituents having individual consumer related problems.

We are now in the process of constructing a display to further explain the history of the division. This display will contain items seized by the division during the course of investigations and legal action. Also, we will be constructing a rack to display various consumer protection booklets from governmental agencies and businesses throughout the country.

If further information is needed, please do not hesitate to contact this office.