



Court: Shawnee County District Court
Case Number: 2019-CV-000893
Case Title: State of Kansas ex rel Derek Schmidt Atty General
vs. Marvin Wood, et al.
Type: Order for Default Judgment Against Defendant

SO ORDERED.

A handwritten signature in cursive script, reading "M.E. Christopher".

/s/ Honorable Mary E Christopher, District Judge

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IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS

STATE OF KANSAS, <i>ex rel.</i>)	
DEREK SCHMIDT, Attorney General,)	
)	
Plaintiff,)	
)	
v.)	Case No. 2019-CV-893
)	
MARVIN WOOD, an individual)	
and)	
MWA MACHINE CO. INC., a corporation,)	
)	
Defendants.)	
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(Pursuant to K.S.A. Chapter 60)		

ORDER FOR DEFAULT JUDGMENT AGAINST DEFENDANT

NOW, on this date, Plaintiff’s Motion for Default Judgment against the Defendant Marvin Wood and Defendant MWA Machine Co. Inc. and Memorandum in Support (“Motion for Default Judgment”) comes before this Court for consideration. Plaintiff, State of Kansas ex rel. Derek Schmidt, Attorney General, appears by and through Assistant Attorney General Kaley Schrader. Defendants appear not and are in default.

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

1. Derek Schmidt is the duly elected, qualified 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, K.S.A. § 50-623, *et seq.*

3. This Court has personal and subject matter jurisdiction over this controversy by the Kansas Consumer Protection Act, K.S.A. § 50-623, *et seq.*, specifically K.S.A. § 50-638(a).

4. Venue is proper in the Third Judicial District (Shawnee County), pursuant to K.S.A. § 50-638(b).

5. On December 4, 2019, Plaintiff filed a Petition against Defendant Marvin Wood and Defendant MWA Machine Co. Inc.

6. Defendant Marvin Wood is the owner and operator and exercises exclusive control over Defendant MWA Machine Co. Inc., a foreign for-profit corporation.

7. Defendants have a principal place of business located at 6592 Rufus Bryant Road, Dahlonega, Georgia, 30533.

8. Defendants were served with Plaintiff's Petition and Summons by USPS Certified Mail on December 9, 2019 at Defendants' principal place of business located at 6592 Rufus Bryant Road, Dahlonega, Georgia, 30533 pursuant to K.S.A. 60-205 and K.S.A. 60-303.

9. Defendants have failed to file an Answer within thirty (30) days after being served with process, as required by K.S.A. 60-308(a)(3).

10. Plaintiff filed its Motion for Default Judgment on February 19, 2020.

11. Plaintiff's Motion for Default Judgment is predicated on Defendants' failure to file an Answer to the Plaintiff's Petition, which was filed on December 4, 2019.

12. Defendants are not a minor or an incapacitated person.

13. Defendants are in default pursuant to K.S.A. 60-255.

14. 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 and are as follows:

a. Defendant Wood is the owner and operator and exercises exclusive control over Defendant MWA Machine Co. Inc., a foreign for-profit corporation.

b. At all times relevant hereto, and in the ordinary course of business, the Defendants acted as a "supplier," as that term is defined by K.S.A. § 50-624(1).

c. At all times relevant hereto, and in the ordinary course of business, the Defendants made or caused to be made "consumer transactions," as that term is defined by K.S.A. § 50-624(c).

d. The Defendants made, or caused to be made, a consumer transaction in which the consumer was unable to receive a material benefit from the subject of the transaction pursuant to K.S.A. 50-627(b)(3).

e. The Defendants engaged in the willful use, in oral representations, of a falsehood as to a material fact pursuant to K.S.A. 50-626(b)(2).

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 Marvin Wood and Defendant MWA Machine Co. Inc. in favor of Plaintiff on all Counts of the Petition.

IT IS FURTHER ORDERED, ADJUDICATED AND DECREED that the actions and practices alleged in Plaintiff's Petition are declared to be deceptive and unconscionable and in violation of the Kansas Consumer Protection Act.

IT IS FURTHER ORDERED, ADJUDICATED AND DECREED that Defendant Marvin Wood and Defendant MWA Machine Co. Inc. and any employees, agents, representatives, affiliates, assignees and successors are permanently enjoined from doing business in the State of Kansas.

IT IS FURTHER ORDERED, ADJUDICATED AND DECREED that Defendant Marvin Wood and Defendant MWA Machine Co. Inc. pay reasonable investigative fees and expenses to Plaintiff, in this case amounting to \$843.75.

IT IS FURTHER ORDERED, ADJUDICATED AND DECREED that Defendant Marvin Wood and Defendant MWA Machine Co. Inc. pay a civil penalty in the amount of \$10,000.00 for each violation of the Kansas Consumer Protection Act alleged in the Plaintiff's Petition, pursuant to K.S.A. 50-636(a), in this case in the aggregate of \$20,000.00.

IT IS FURTHER ORDERED, ADJUDICATED AND DECREED that Defendant Marvin Wood and Defendant MWA Machine Co. Inc. pay restitution totaling \$12,780.00 to the following consumer: C.S. Payment shall be in the form of a cashier's check, money order or other certified funds payable to the **Office of the Kansas Attorney General**, marked **CP-19-2665** and delivered to:

Office of the Kansas Attorney General
Attn: AAG Kaley Schrader
120 SW 10th Ave., 2nd Floor
Topeka, KS 66612

IT IS FURTHER ORDERED, ADJUDICATED AND DECREED that Defendant Marvin Wood and Defendant MWA Machine Co. Inc. pay all Court Costs and all costs associated with distributing and executing this judgment.

IT IS SO ORDERED.

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

Respectfully submitted,

/s/ Kaley Schrader
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