



Court: Shawnee County District Court
Case Number: 2019-CV-000768
Case Title: State of Kansas ex rel Derek Schmidt Atty General
vs. Kurt Miller
Type: Order for Default Judgment Against Defendant

SO ORDERED.

A handwritten signature in black ink that reads "Richard D. Anderson". The signature is written in a cursive style with a long, sweeping tail.

/s/ Honorable Richard Anderson, 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-768
KURT MILLER, an individual)	
dba)	
GOLD RUSH JEWELRY & COIN)	
)	
Defendant.)	
)	

(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 Kurt Miller d/b/a Gold Rush Jewelry & Coin 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 Sarah M. Dietz. Defendant Kurt Miller d/b/a Gold Rush Jewelry & Coin 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. 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 October 17, 2019, Plaintiff filed a Petition against Defendant Kurt Miller d/b/a Gold Rush Jewelry & Coin ("Defendant").

6. Defendant is the owner and operator and exercises exclusive control over the sole proprietorship Gold Rush Jewelry & Coin.

7. Defendant has a principal place of business address of 425 E Washington St. Ste 3, Sequim, Washington, 98382.

8. A copy of Plaintiff's Petition, Summons, Affidavit, and Exhibits were served by Personal Service October 18, 2019 at Defendant's principal place of business located at 425 E. Washington Street, Suite 3, Sequim, Washington, 98382, pursuant to K.S.A. 60-205 and K.S.A. 60-303.

9. Defendant has 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 November 22, 2019.

11. 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 17, 2019.
12. Defendant is not a minor or an incapacitated person.
13. Defendant is 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 Kurt Miller is the owner and operator and exercises exclusive control over the sole proprietorship Gold Rush Jewelry & Coin.
 - b. At all times relevant hereto, and in the ordinary course of business, the Defendant 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 Defendant made or caused to be made "consumer transactions," as that term is defined by K.S.A. § 50- 624(c).
 - d. Around March of 2017, the Defendant engaged in the business of and acted in the capacity of a supplier within this state.
 - e. The Defendant contracted with one (1) Kansas consumer for a custom 14 carat gold and diamond ring for the amount of \$8,800.
 - f. On March 24, 2017, the consumer made a down payment of \$6,693. The remaining balance of \$2,107 was to be paid upon receipt of the ring.
 - g. To date, the consumer has not received the ring or a refund.

h. The Defendant 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).

i. The Defendant made, or caused to be made, a consumer transaction in which the transaction was excessively one-sided in favor of the Defendant pursuant to K.S.A. 50-627(b)(5).

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 Kurt Miller d/b/a Gold Rush Jewelry & Coin 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 Kurt Miller d/b/a Gold Rush Jewelry & Coin 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 Kurt Miller d/b/a Gold Rush Jewelry & Coin pay reasonable investigative fees and expenses to Plaintiff, in this case amounting to \$1,106.25.

IT IS FURTHER ORDERED, ADJUDICATED AND DECREED that Defendant Kurt Miller d/b/a Gold Rush Jewelry & Coin 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 Kurt Miller d/b/a Gold Rush Jewelry & Coin pay restitution totaling \$6,693.00 to the following consumer: S.T.

IT IS FURTHER ORDERED, ADJUDICATED AND DECREED that Defendant Kurt Miller d/b/a Gold Rush Jewelry & Coin 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/ Sarah M. Dietz
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