



Court: Shawnee County District Court
Case Number: 2018-CV-000041
Case Title: State of Kansas ex rel Derek Schmidt Atty General
vs. Zachary Lipppa
Type: Order of Default Judgment

SO ORDERED.

A handwritten signature in black ink, appearing to read "T. Watson", is written in a cursive style.

/s/ Honorable Teresa L Watson, District Court Judge

IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS

STATE OF KANSAS, <i>ex rel.</i>)	
DEREK SCHMIDT, Attorney General,)	
)	
Plaintiff,)	
)	
v.)	
)	CASE NO. 2018-CV-41
ZACHARY LIPPA, an individual)	DIVISION NO. 3
dba)	
PACIFIC TOOL & MACHINERY/)	
PACIFIC MANAGEMENT GROUP)	
aka)	
PACIFIC TOOL CO)	
)	
Defendant.)	
)	
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(Pursuant to K.S.A. Chapter 60)		

ORDER OF DEFAULT JUDGMENT

On December 11, 2019, the captioned matter came before the Court for Pre-Trial Conference, as scheduled in the Case Management Order. Plaintiff appears by Sarah M. Dietz, Assistant Attorney General. Defendant appears not.

Whereupon, the Court enters this order after providing Defendant a reasonable opportunity to be heard, and finds the following:

1. Plaintiff filed a Petition against Defendant on January 11, 2018.
2. Defendant failed to file a response, and Default Judgment was issued on April 18, 2018 following two hearings, which the Defendant failed to attend.
3. On August 17, 2018, the Default Judgment was vacated after Defendant vigorously argued for an opportunity to be heard. The Defendant was granted thirty (30) days to file a response to Plaintiff's petition.

4. Defendant failed to file an answer in that timeframe.
5. On September 27, 2018, the Court granted Defendant an extension until October 18, 2018 to file a response to Plaintiff's petition.
6. Defendant filed a Motion to Dismiss the Complaint. That Motion was denied on November 14, 2018, and Defendant was ordered to file an answer to Plaintiff's petition within the statutory timeframe.
7. Defendant filed a Motion to Strike Plaintiff's Petition and Motion to Strike Plaintiff's Response to Respondant's[sic] Motion to Dismiss on December 4, 2018, which were denied on January 9, 2019.
8. Defendant filed an answer to Plaintiff's Petition on January 21, 2019, and a Case Management Conference was scheduled.
9. The Court held a Case Management Conference on April 25, 2019. Plaintiff appeared in person and the Court allowed Defendant to appear by phone. At that conference, the Court entered an Undisputed Case Management Order, stating that all parties must appear, in person, for the Pretrial Conference to be held on December 11, 2019. The Court also ordered both parties to file Pretrial Questionnaires at least one week before the Pretrial Conference date. This order was given verbally at the Case Management Conference and memorialized in a written order. Defendant both heard the order and received a written copy of the order.
10. Defendant failed to appear in person for the Pretrial Conference held on December 11, 2019 as ordered by the Court. Defendant did not contact the Court and did not respond to the Court's attempt to reach him by phone on December 11, 2019.
11. Defendant failed to file and serve upon Plaintiff a Pretrial Questionnaire as ordered by the court.

12. Neither Plaintiff nor the Court have heard from the Defendant since at least July 2019.

13. The Court has given Defendant ample opportunity to be heard in this matter, and he has failed to appear for the Pretrial Conference as ordered, failed to obey the orders of the Court issued on April 25, 2019, and is unprepared to participate as he has failed to submit his Pretrial Questionnaire as ordered.

14. Defendant has failed without good cause to appear at the scheduled pretrial conference and is therefore subject to sanctions under K.S.A. 60-216(f)(1).

15. The Court finds that entry of default judgment against the Defendant is an appropriate sanction for his violation of K.S.A. 60-216(f)(1). See K.S.A. 60-237(b)(2)(A)(vi).

16. In entering default judgment, the Court finds the Defendant in violation of K.S.A. 50-627(b)(3) and K.S.A. 50-627(b)(5).

17. In entering default judgment, the Court finds that Defendant should be required to pay investigative fees, civil penalties, and consumer restitution as requested by the Plaintiff in Plaintiff's Petition and Pretrial Questionnaire.

This Court having set forth on the record the conduct on which imposition of the following sanctions are based and the reasons why the Court found the failure to comply to be without good cause, orders as follows:

IT IS ORDERED, ADJUDICATED AND DECREED, that default judgment is entered against the Defendant for violations of K.S.A. 50-627(b)(3) and K.S.A. 50-627(b)(5);

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 and any employees, agents, representatives, affiliates, assignees and successors are permanently enjoined from doing business in the State of Kansas;

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that default judgment be entered in favor of Plaintiff against Defendant in the amount of \$3,142.50 in investigative fees, \$20,000.00 in civil penalties, and \$19,425.00 in consumer restitution;

IT IS FURTHER ORDERED, ADJUDICATED AND DECREED that Defendant pay all court costs.

IT IS SO ORDERED.

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

CERTIFICATE OF SERVICE

I hereby certify that a copy of the above document was filed electronically and deposited in the U.S. Mail, on the date stamped on the order, providing notice to the following:

Sarah Dietz
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Defendant