

CP-07-001882

Joseph N. Molina, #20934
Assistant Attorney General
Office of the Attorney General
120 SW 10th Avenue, 2nd Floor
Topeka, Kansas 66612-1597
(785) 296-3751

FILED DISTRICT COURT
COWLEY COUNTY, KS

2008 JAN 14 P 1:23

BY _____

IN THE DISTRICT COURT OF COWLEY COUNTY, KANSAS
Civil Department

STATE OF KANSAS, ex rel.,)
PAUL MORRISON, Attorney General,)
)
Plaintiff,)

Case No. 07 CV 184W

vs.)

Mark R. Nichols, an individual,)
d/b/a Nichols & Son's Remodeling,)
)
Defendant.)

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

JOURNAL ENTRY

COMES NOW on this ____ day of _____, 2008, the Plaintiff's Motion for Default Judgment before this Court for consideration. The State of Kansas, *ex rel.* Paul Morrison, appears by and through Assistant Attorney General, Joseph N. Molina. The Defendant appears not.

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

- (1) On January 15, 2008, Plaintiff filed a Motion for Default Judgment and Memorandum in Support Thereof.
- (2) Defendant failed to respond to said Motion.
- (3) Plaintiff's Motion for Default Judgment is predicated upon Defendant's failure to file an Answer to Plaintiff's Petition which was filed on September 20, 2007.

(4) On October 4, 2007, a copy of the summons and a copy of the Petition was served by certified mail upon the Defendant at his residence.

(5) The certified mail receipt was signed by Diane Gelles, at Defendant's address, on October 11, 2007.

(5) Defendant failed to file an Answer within 30 days after being served with process, as required by K.S.A. 60-212(a).

(6) More than 30 days have elapsed since Defendant was served with a copy of the summons and a copy of the Petition and Defendant has failed to file an Answer.

(7) Pursuant to K.S.A. 60-255, Defendant is in Default.

(8) The legal arguments and authorities set forth in Plaintiff's Motion and Memorandum of Default Judgment is adopted as the Court's 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 THEREFORE ORDERED; ADJUDICATED AND DECREED that judgment is hereby entered in favor of Plaintiff and against Defendant on all counts of the Petition.

IT IS THEREFORE ORDERED; ADJUDICATED AND DECREED that the alleged violations of the Kansas Consumer Protection Act are declared to be both deceptive and unconscionable.

IT IS THEREFORE ORDERED; ADJUDICATED AND DECREED that Defendant and its employees and agents be permanently enjoined from these and other violating practices, pursuant to K.S.A. 50-632(a)(2).

IT IS THEREFORE ORDERED, ADJUDICATED AND DECREED that Defendant should be ordered to pay \$10,000.00 in civil penalties for each violation of the Kansas Consumer Protection Act, such sum presently believed to be not less than \$40,000.00.

IT IS THEREFORE ORDERED; ADJUDICATED AND DECREED that Defendant should be ordered to pay consumer restitution to all Kansas consumers who were party to these contracts the full damages to which they are entitled, such sum to be no less than \$8,000.00

IT IS THEREFORE ORDERED; ADJUDICATED AND DECREED that Defendant pay reasonable investigative fees and expenses to the Office of the Attorney General, as provided by K.S.A. 50-636(c);

IT IS THEREFORE ORDERED, ADJUDICATED AND DECREED that Defendant pay all Court costs.

IT IS SO ORDERED.



**ORIGINAL SIGNED BY
J. MICHAEL SMITH**

District Court Judge J. Michael Smith

Respectfully submitted,

OFFICE OF THE ATTORNEY GENERAL
PAUL MORRISON

Joseph N. Molina, #20934
Assistant Attorney General
Office of the Attorney General
120 S.W. 10th Avenue, 2nd Floor
Topeka, Kansas 66612-1597
(785) 296-3751