

Shelly Gasper  
Supreme Court #12896  
Assistant Attorney General  
Office of the Attorney General  
Kansas Judicial Center - Lower Level  
Topeka, Kansas 66612-1597  
(913) 296-3751

IN THE DISTRICT COURT OF COMANCHE COUNTY, KANSAS

STATE OF KANSAS, ex rel.,	)	
ROBERT T. STEPHAN, Attorney General,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Case No. 89 C 3
	)	
VACUUM CARBURETOR CORPORATION	)	
and FRANK GREENE,	)	
	)	
Defendants.	)	
	)	

---

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

JOURNAL ENTRY OF DEFAULT JUDGMENT

NOW, on this 3 day of May, 1989, Plaintiff's Motion for Default Judgment comes before the Court. Plaintiff appears by Shelly Gasper, Assistant Attorney General. Defendants do not appear.

It appears to the Court that the Petition in the above-captioned action was filed on January 27, 1989, and Summons and Petition were personally served on Defendant, Vacuum Carburetor Corporation, by serving its resident agent, on January 27, 1989, and Service by Mail was acknowledged by Defendant, Frank Greene, on February 9, 1989. No answer or other pleading has been filed by Defendants.

Upon consideration of the record and files in this action, the Court finds that Plaintiff is entitled to the relief requested in the Petition and Notice to Take Default Judgment.

IT IS THEREFORE BY THE COURT ORDERED, ADJUDGED AND DECREED as follows:

1. The Court has jurisdiction over the subject matter of this action.

2. The Defendants, Vacuum Carburetor Corporation and Frank Greene, were served with process and the Court has personal jurisdiction over Vacuum Carburetor Corporation and Frank Greene.

3. A Notice to Take Default Judgment was mailed to Defendants, Vacuum Carburetor Corporation and Frank Greene, on April 14, 1989.

4. The action was brought by the Attorney General of Kansas, Robert T. Stephan, as part of his enforcement duties under the Kansas Consumer Protection Act, K.S.A. 50-623 et seq.

5. The following acts and practices of Defendants are declared deceptive and unconscionable and violations of the Kansas Consumer Protection Act, K.S.A. 50-623 et seq.:

- a) Defendant advertised its carburetors as giving better gas mileage, crisper throttle, more power and reduced engine wear;
- b) Defendant also advertised a 12-month 100% money-back guarantee;
- c) Many consumers who purchased carburetors were disappointed with the performance, and returned the carburetor as instructed; and
- d) Defendant has not refunded the money of the consumers attached as Exhibit "A", as promised in its solicitations.

6. Defendants, Vacuum Carburetor Corporation and Frank Greene, specifically are found to be in violation of the following sections of the Kansas Consumer Protection Act, K.S.A. 50-623 et seq.:

- a) No supplier shall engage in any deceptive act or practice in connection with a consumer trans-

- action K.S.A. 50-626(a);
- b) Representations made knowingly or with reason to know that property has characteristics, uses, or benefits that it does not have K.S.A. 50-626(b)(1)(A);
  - c) No supplier shall engage in any unconscionable act or practice in connection with a consumer transaction. An unconscionable act or practice violates this act whether it occurs before, during or after the transaction K.S.A. 50-627(a);
  - d) That, when the consumer transaction was entered into, the consumer was unable to receive a material benefit from the subject of the transaction K.S.A. 50-627(b)(3); and
  - e) That the supplier made a misleading statement of opinion on which the consumer was likely to rely to the consumer's detriment K.S.A. 50-627(b)(6).

7. Defendants are ordered to pay damages to any and all consumers have contacted the Attorney General's Office with regard to the violative acts above mentioned. Restitution currently is set at \$17,052.79 payable to the consumers listed on Attachment "A" to this document.

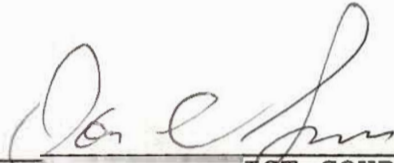
8. Defendants pay civil penalties of \$1,000.00 for each violation of the Kansas Consumer Protection Act as provided for in K.S.A. 50-636. Defendants have violated five (5) provisions of the Kansas Consumer Protection Act, therefore, civil penalties are \$5,000.00.

9. That Defendants pay \$5,000.00 as reasonable investigative fees and expenses to the Attorney General's Court Cost Fund.

10. That all court costs be assessed to the Defendants.

11. The Court retains jurisdiction over the parties and the subject matter involved in this cause of action for the purpose of rendering any additional orders, decrees, judgments -- equitable relief as may be required.

IT IS SO ORDERED.



JUDGE OF THE DISTRICT COURT

Prepared and submitted by:

OFFICE OF THE ATTORNEY GENERAL  
ROBERT T. STEPHAN

\_\_\_\_\_  
Shelly Gasper

Attorney for Plaintiff.

FILED  
MAY 3 9 32 AM '09  
SHEILA M. SWINNEY  
CLERK DISTRICT COURT  
BY S. M. S.

ATTACHMENT "A"

RESTITUTION

HARRISON	\$ 3,197.00
NIIIVANEN	249.50
J. JOHNSON	287.50
KELLS	229.50
SMITH	265.60
FISHER	2,281.00
ROBERTS	271.40
R. MAXWELL	198.90
TENORIO	2,500.00
K. MAXWELL	1,690.00
TOWNES	249.50
JACK	251.40
BLANCHARD	289.50
KAUFMAN	276.10
HANSON	269.50
ALBERS	292.48
D. JOHNSON	305.76
VAN CLEAVE	197.00
BRAUN	239.15
GADEKEN	500.40
GRAYBEAL	197.00
HALLIER	398.00
ERICKSON	249.50
BROWN	241.45
MUELLER	229.95
STRECKER	251.40
VEST	262.50
COSSMAN	985.00
WALLACE	197.00

FILED

\$17,052.79

MAY 3 9 32 AM '89

*Ellen M. Erwin*  
CLERK DISTRICT COURT  
BY *E. M. E.*