

99-006

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FILED BY CLERK
K.S. DISTRICT COURT
3rd JUDICIAL DISTRICT

MAR 17 8 50 AM '99

TOPEKA KANSAS

IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS
Division 1

STATE OF KANSAS, *ex rel.*
CARLA J. STOVALL, Attorney General,

Plaintiff,

vs.

TOM OCCHIUTO,
d/b/a CIRCLE OF SERVICE,

Defendant.

THIRD JUDICIAL DISTRICT
MAR 12 1999
DIVISION 1

CASE NO. 99 C 131

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

MOTION AND ORDER FOR DEFAULT JUDGMENT

COMES NOW the plaintiff, State of Kansas, *ex rel.* Carla J. Stovall, Attorney General, by and through James J. Welch, Assistant Attorney General, and for her motion alleges and states as follows:

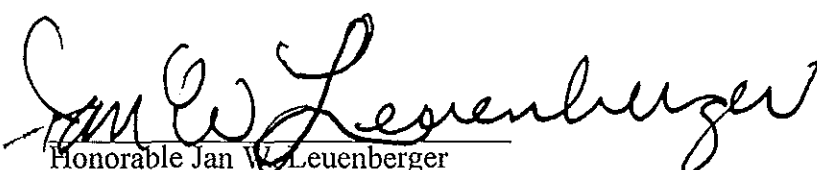
1. On or about January 26, 1999, the plaintiff brought suit against the defendant, Tom Occhiuto, d/b/a Circle of Service, for violations of the Kansas Consumer Protection Act.
2. Defendant Tom Occhiuto, d/b/a Circle of Service, was served via certified mail service on or about February 6, 1999.
3. Defendant has submitted to the jurisdiction of the courts of this state by transacting business within this state and by entering into consumer transactions, as defined by the Kansas Consumer Protection Act, K.S.A. §50-624(c).
4. To date, Defendant has failed to respond to the plaintiff's petition or otherwise plead.

5. Defendant has committed a total of at least five hundred forty (540) violations of the Kansas Consumer Protection Act in representations to and transactions involving at least ninety (90) consumers.

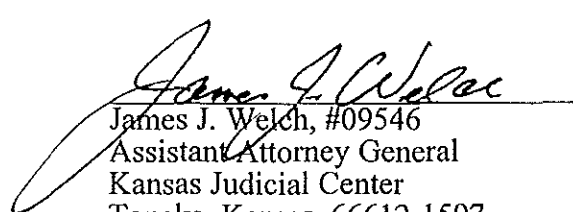
WHEREFORE, plaintiff prays the Court to order, adjudge and decree that the Defendant is in default for failure to answer or otherwise plead in the above-captioned action by and through a licensed Kansas attorney as required by law and to grant the relief in the Petition, specifically:

- (a) the Defendant be ordered to pay \$2,700,000.00 civil penalties to the State of Kansas,
- (b) the Defendant be ordered to pay \$5,000.00 investigative fees,
- (c) the Defendant be ordered to pay \$44,903.00 restitution to the ninety (90) consumers from whom Defendant accepted payment, as enumerated in Exhibit A to the Petition filed on January 26, 1999, and
- (d) the Defendant be permanently enjoined from engaging in any type of consumer transaction as a supplier within the state of Kansas.

SO ORDERED.


Honorable Jan W. Leuenberger
District Judge

Respectfully submitted,
OFFICE OF THE ATTORNEY GENERAL
CARLA J. STOVALL


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