

93-006
FILED BY CLERK
DISTRICT COURT
3RD JUDICIAL DISTRICT
JAN 31 3 21 PM '94
GENERAL JURISDICTION
TOPEKA KANSAS

IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS
Division 13

STATE OF KANSAS, ex rel.
ROBERT T. STEPHAN, Attorney General,
Plaintiff,
vs.
BARRISTER INVESTMENTS, INC.
Defendant.

MICROFILMED
3RD JUDICIAL DISTRICT

Case No. 93 CV 524

JOURNAL ENTRY OF JUDGMENT

Before the court is plaintiff's motion for default. For the reasons enumerated in this opinion, the court finds the defendant in default.

I. DEFAULT

The State filed its petition on May 10, 1993. Barrister Investments entered an appearance by filing a letter that purported to be an answer on May 28. As an answer, however, the letter was defective in several ways. Most importantly, it was not signed in accordance with K.S.A. 60-211, so there is no one to hold responsible for the content of the answer. Further, no attorney is listed as representing the corporation, but corporations may not appear pro se. See e.g. Stephenson v. Barringer, 758 F. Supp. 657, 660 (D. Kan. 1991). Finally, the letter did not comply with the requirements of an answer as set out in K.S.A. 1992 Supp. 60-208(b), which requires that "A party

shall state in short and plain terms such party's defenses to each claim asserted and shall admit or deny the averments upon which the adverse party relies." The letter did not do this, but answered many of the allegations of the petition with "No Reply." For these reasons, the court determined that it would strike the answer as a pleading on January 5, 1994, at the discovery conference set on that date, and struck the pleading by order on January 12, 1993. Because of this, the defendant has not made an effective answer in this case as required by K.S.A. 60-212.

The defendant has also failed to appear at the discovery conference on January 5 or the hearing on Plaintiff's Motion for Default Judgment.

For both of these reasons--the failure to make a timely answer and the failure to appear at and pretrial hearings -- the defendant is in default.

II. DAMAGES

In paragraph C of its petition, the State requested damages to all consumers harmed by the defendant. The petition, however, alleges harm to only one consumer: George Parks of Salina. In paragraph 6 of the petition, plaintiff alleges that Mr. Parks purchased 20 pay phones at a cost of \$650.00 per phone. In paragraph 7 of the petition, plaintiff alleges that Mr. Parks paid \$4000.00 to a locator service arranged by defendant. There-

fore, according to the petition, defendant caused \$17,000.00 of damage to Mr. Parks.

In paragraph E of the petition, the State requested \$5,000.00 for every violation of the Kansas Consumer Protection Act. The petition alleges three separate violations of the Act. Therefore, defendant must pay \$15,000.00 in penalties to the State of Kansas.

The court further finds that reasonable investigative fees in this case amount to 5.5 hours of investigation at \$35.00/hour, for a total of \$177.50 in investigation fees.

IT IS THEREFORE ORDERED that defendant pay \$17,000.00 to Mr. George Parks of Salina. The State of Kansas, through the Attorney General, is authorized to collect this judgment.

IT IS FURTHER ORDERED that defendant pay \$15,000.00 to the State of Kansas in penalties and \$177.50 to the Attorney General for reasonable investigative fees.

IT IS FURTHER FOUND that defendant has committed acts and practices in violation of the Kansas Consumer Protection Act, and

IT IS THEREFORE ORDERED that defendant and its agents are permanently enjoined from engaging in any consumer transactions in the State of Kansas.



Thomas R. Conklin
THOMAS R. CONKLIN
DISTRICT JUDGE
1-28-94

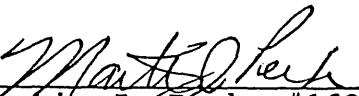
STATE OF KANSAS, COUNTY OF SHAWNEE, SS.
I hereby certify the above and foregoing to be
a true and correct copy, the original of which
is filed and entered of record in the court.

Dated 01/11/95

CLERK of the DISTRICT COURT

By *Debra E. Anderson*
DEPUTY

PREPARED BY:



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