



Court: Shawnee County District Court
Case Number: 2021-CV-000047
Case Title: State of Kansas ex rel Derek Schmidt Atty General
vs. Douglas L Bell III, et al.
Type: Order Finding Defendants in Contempt

SO ORDERED.

A handwritten signature in cursive script that reads "M.E. Christopher".

/s/ Honorable Mary E Christopher, District Judge

**IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS
THIRD JUDICIAL DISTRICT
DIV. 8**

STATE OF KANSAS, <i>ex rel.</i>)	
DEREK SCHMIDT, Attorney General,)	
)	
Plaintiff,)	
v.)	
)	
DOUGLAS L. BELL, an individual,)	2021-CV-000047
and)	
CUSTOM CONCRETE CONTRACTORS, LLC,)	
a Kansas limited liability company,)	
)	
Defendants.)	
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(Pursuant to K.S.A. Chapter 60))	

ORDER FINDING DEFENDANTS IN CONTEMPT

Now on this date the matter comes before the Court on Plaintiff’s Motion for Contempt and Supplemental Relief and Plaintiff’s Renewed Motion for Contempt and Supplemental Relief. Plaintiff, State of Kansas, appears by and through counsel Assistant Attorney General Melanie Jack (“Plaintiff”). Defendants Douglas L. Bell and Custom Concrete Contractors, LLC (“Defendants”), do not appear.

After review of the Court file, pleadings, affidavit and exhibits, the Court finds as follows:

Findings of Fact

1. Plaintiff filed its Petition and Motion for Temporary Restraining Order on January 28, 2021, alleging violations of the Kansas Consumer Protection Act (“KCPA), K.S.A. 50-623 *et seq.*, requesting monetary relief and a permanent injunction.

2. On February 9, 2021, Plaintiff properly served Defendants with the Petition and Summons.
3. The Petition alleged Defendants had committed deceptive and unconscionable acts and practices in violation of the KCPA, K.S.A. 50-623, *et seq.*, in connection with construction work performed for and services provided to two Kansas consumers.
4. The Petition requested injunctive relief prohibiting Defendants from conducting consumer transactions in the State of Kansas.
5. The Petition also requested civil penalties, restitution and investigation fees.
6. Defendants did not answer the Petition.
7. On March 17, 2021, this Court entered the Journal Entry of Default Judgment and Permanent Restraining Order against Defendants.
8. On April 22, 2021, Plaintiff filed a Motion to Set Aside the Default Judgment and enter a Journal Entry Consent Judgment.
9. The Journal Entry of Consent Judgment was approved by this Court on April 22, 2021.
10. The terms of the monetary judgment required Defendants to make monthly payments in the amount of \$567.00 commencing May 1, 2021 until restitution and investigation fees were paid in full.
11. Civil Penalties, in the amount of \$20,000.00 were suspended on the condition Defendants comply with the payments terms.
12. Failure to make the monthly payments is a material violation of the Consent Judgment.
13. The Right to Reopen provisions of the Consent Judgment lifts the suspension of civil penalties and the entire monetary judgment becomes due and payable, upon violation of a material term.

14. Plaintiff received one (1) partial monthly payment in the amount of \$550.00. No other payments have been received.

15. Defendants are in arrears beginning June 1, 2021.

16. On February 18, 2022, Plaintiff filed its Motion for Contempt and Supplemental Relief.

17. Attorney Richard H. Seaton, Sr. accepted service of this motion on that date as reflected in the Certificate of Service for Plaintiff's Motion in Contempt.

18. On March 9, 2022, Attorney Seaton advised the Court and counsel he no longer represented Defendants and would not enter an appearance in this case.

19. Attorney Seaton advised the Court and counsel he had provided the Motion for Contempt to Defendants with no response.

20. Defendants were served the Motion in Contempt and Notice of Hearing by email on March 10, 2022, and mailed to the last known address of Defendants, as reflected in the Court file.

21. Defendants' response to Plaintiff's Motion for Contempt was due 14 days after filing or March 4, 2022.

22. Defendants have not timely responded to Plaintiff's Motion for Contempt.

Conclusions of Law

23. DCR 3.202 requires an opposing party to file a written response within fourteen (14) days after service of the motion. In this case counsel for Defendants accepted service on February 18, 2022. Computation of time to respond is governed by K.S.A. 60-206(a).

24. Defendants have been properly served notice of the Motion for Contempt through former counsel Richard Seaton, Sr. and by service of notice of hearing on the Motion for Contempt filed on March 10, 2022.

25. Defendants have failed to timely respond to the Motion for Contempt as required by DCR 3.202.

26. Defendants' failure to respond to Plaintiff's Motion for Contempt deems the motion to be unopposed.

27. Plaintiff certified to the Court that the Motion for Contempt is ready for ruling and deemed finally submitted for decision.

28. This matter is now properly before the Court for ruling on the combined motions, pursuant to DCR 3.202 and Kan. S. Ct. Rule 133.

29. The Court finds Defendants have materially violated the Consent Judgment for failure to make scheduled monthly payments, a material term, pursuant to K.S.A. § 50-636(b).

30. Defendants' are in contempt of this Court's order for the material violation, § 20-1201, *et seq.*

31. The previously suspended civil penalties in the amount of \$20,000.00 are due and payable due to the material violation.

32. This Court has authority to assess additional civil penalties in the amount of \$20,000.00 for violation of the order.

33. This Court has authority to issue a permanent injunctive relief prohibiting Defendants from conducting consumer transactions in Kansas.

34. This Court retains jurisdiction in this case and may issue orders as necessary and appropriate to enforce the Consent Judgment. K.S.A. § 50-636 and K.S.A. § 20-1201, *et seq.*

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the findings of fact and conclusions of law contained herein are adopted and approved and any monies owed hereunder by Defendants immediately becomes a judgment upon filing.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED Defendants are permanently enjoined from conducting consumer transactions (as defined by K.S.A. §50-624(c)) and solicitation of consumer transactions pursuant to the KCPA, K.S.A. §50-632(a)(2) and K.S.A. §50-632(c).

IT IS THEREFORE ORDERED ADJUDGED AND DECREED that Defendants are found to be in contempt pursuant to K.S.A. §50-636(b) and §20-1201, *et seq.*, for violations of the Consent Judgment.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that judgment is entered against the Defendants in favor of Plaintiff in the amount of twenty thousand dollars, \$20,000.00, in civil penalties.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that judgment is entered against the Defendants in favor of Plaintiff in the amount of twenty thousand dollars, \$20,000.00, in *additional* civil penalties for violation of the Consent Judgment. (emphasis added)

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that judgment is entered against Defendants to pay the total amount of thirteen thousand six hundred six dollars and fifty-five cents, \$13,606.55 in consumer restitution.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that judgment is entered against Defendants to pay the total amount of two thousand sixty-two dollars and fifty cents, \$2,062.50 in investigation fees.

IT IS THEREFORE ORDERED ADJUDGED AND DECREED that the contempt hearing set for May 26, 2022 at 1:00 PM is vacated;

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Defendants are jointly and severally liable.

IT IS SO ORDERED.

**THIS ORDER IS EFFECTIVE AS OF THE DATE AND TIME OF ITS
ELECTRONIC FILING.**

**HONORABLE MARY CHRISTOPHER
DISTRICT COURT JUDGE**

**OFFICE OF ATTORNEY GENERAL
DEREK SCHMIDT**

Submitted by:

/s/ Melanie Jack

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