

# 2019

**IN YOUR  
CORNER  
KANSAS**

## **Consumer Protection & Antitrust Division Annual Report**

January 1 – December 31, 2019

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**KANSAS  
ATTORNEY GENERAL**

**DEREK SCHMIDT**



# Message from Kansas Attorney General Derek Schmidt



STATE OF KANSAS  
OFFICE OF THE ATTORNEY GENERAL  
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July 2020

Dear Fellow Kansans:

It is my pleasure to present the 2019 annual report for our Consumer Protection Division as required by K.S.A. 50-628. This document also includes annual reports for the Kansas No-Call Act, the Kansas False Claims Act, the Kansas Roofing Registration Act, and antitrust enforcement.

The Consumer Protection Division combats fraud and other illegal business practices. As required by law, we work closely with local prosecutors and private litigants, but the bulk of consumer protection work in our state – more than 3,000 cases in the past year – is handled by our office. Consumer protection is one of our critical priorities.

Kansas consumers can expect from us fair, consistent and even-handed enforcement of the consumer protection laws. From identity theft to door-to-door sales, from the No-Call Act to the data breach statutes, our goal is to enforce the law in a way that provides justice and ensures that the rules are followed. In addition to helping consumers, this approach to enforcement is good for the Kansas economy by ensuring regulatory certainty for businesses.

During 2019, our office recovered more than \$15 million for Kansas consumers and taxpayers. Of course, the best outcome is preventing fraud in the first place, so we have continued our efforts to educate consumers on scam prevention through presentations, literature, and our interactive consumer protection website at [www.InYourCornerKansas.org](http://www.InYourCornerKansas.org).

Thank you for the privilege of serving.

Best wishes,

Derek Schmidt  
Kansas Attorney General



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# 2019 By the Numbers

## Consumer Savings

\$2,586,418.43 – without litigation

\$4,297,574.07 – through litigation

**\$6,883,992.50 – Total Consumer Savings**

## Penalties, Fees and Other Recoveries

\$8,448,744.65 – Civil penalties and fees awarded

\$32,500.00 – No-call penalties awarded

\$68,500.00 – Roofing registration violation penalties awarded

**\$8,549,744.65 – Total Penalties, Fees and Other Recoveries**

## Total Savings and Recoveries

**\$15,433,737.15**

## Investigative Requests

3,057 Investigative Requests Received

### Top Categories

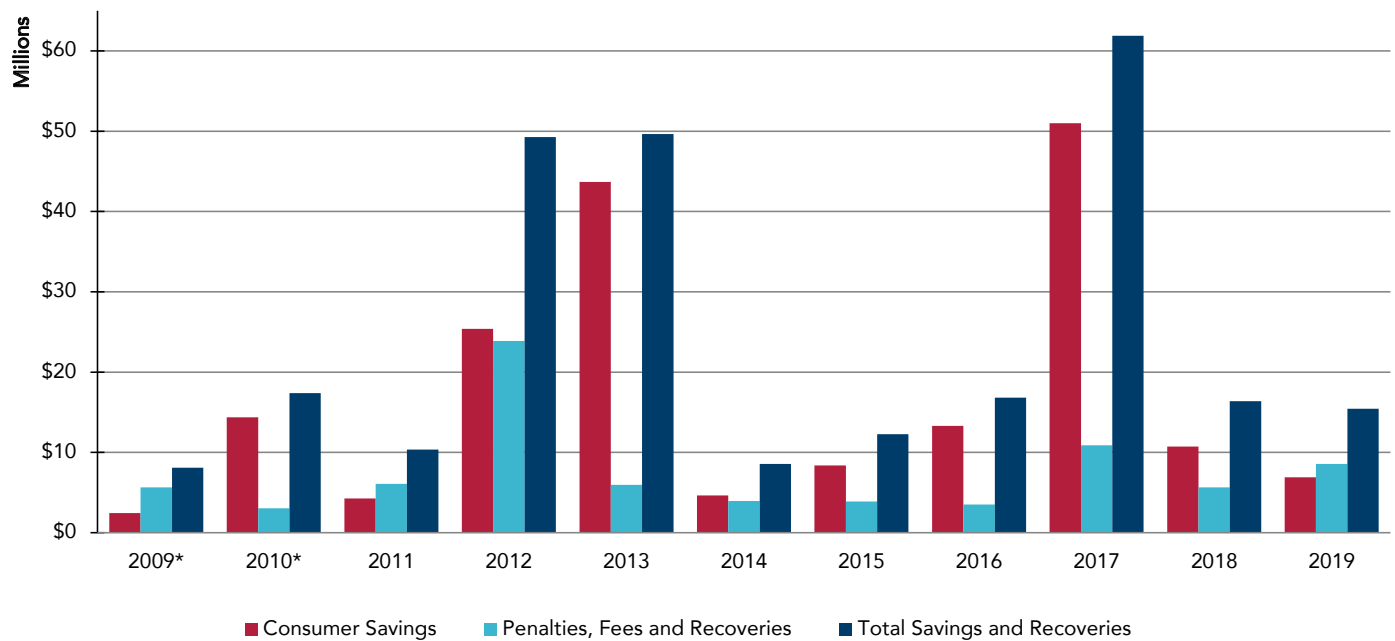
1. No-Call
2. General Services
3. Used Car Sales Practices
4. Roofing Registration Violations
5. Identity Theft
6. Internet Sales
7. Scam Phone Calls
8. Auto Repair and Service Problems
9. Collections by Agencies
10. Cell Phone and Pager Services

3,013 Investigative Requests Closed

### Top Categories

1. No-Call
2. General Services
3. Used Car Sales Practices
4. Roofing Registration Violations
5. Identity Theft
6. Internet Sales
7. Auto Repair and Service Problems
8. Cell Phone and Pager Services
9. Scam Phone Calls
10. Collection by Agencies

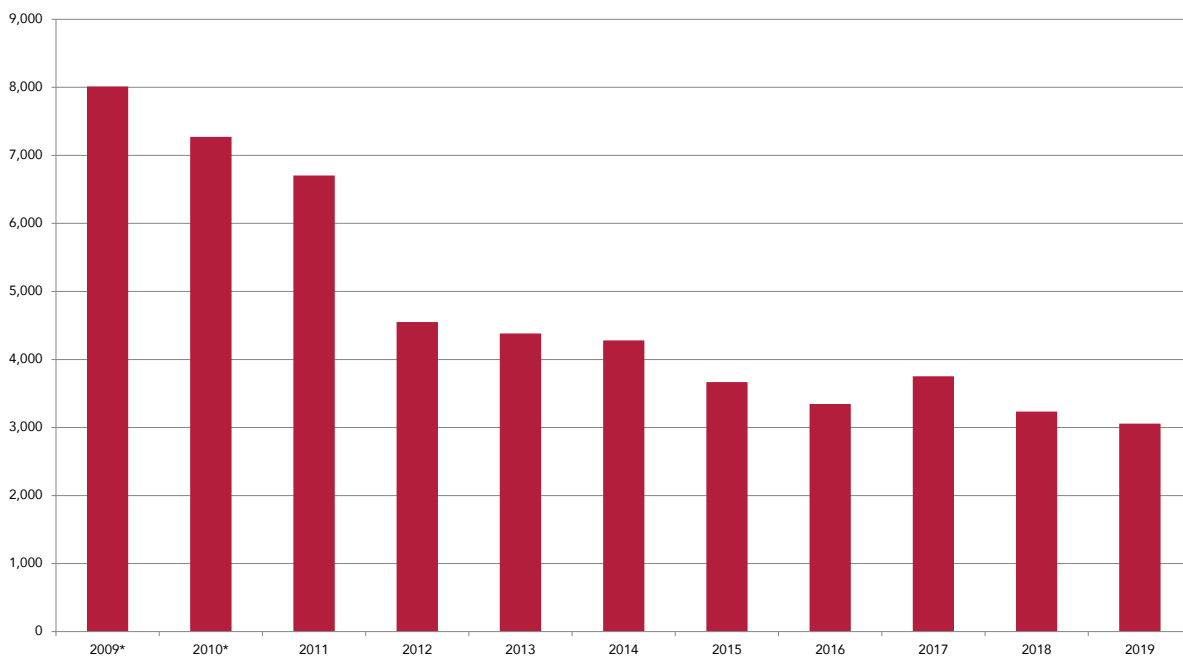
# Recovery Trends



Consumer Savings includes savings without litigation and restitution ordered.

\*2009 and 2010 data were reported based on Fiscal Years.

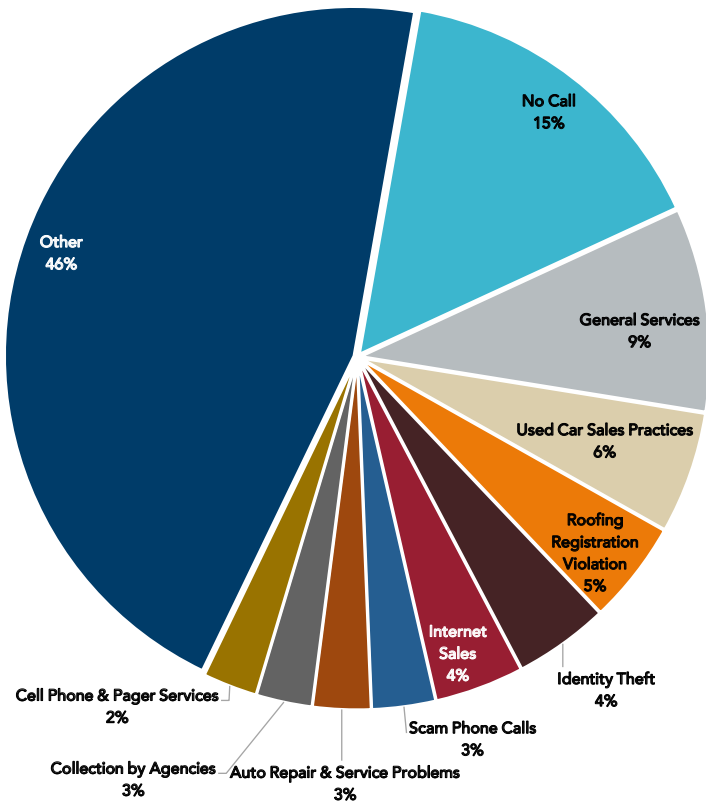
# Investigative Request Trends



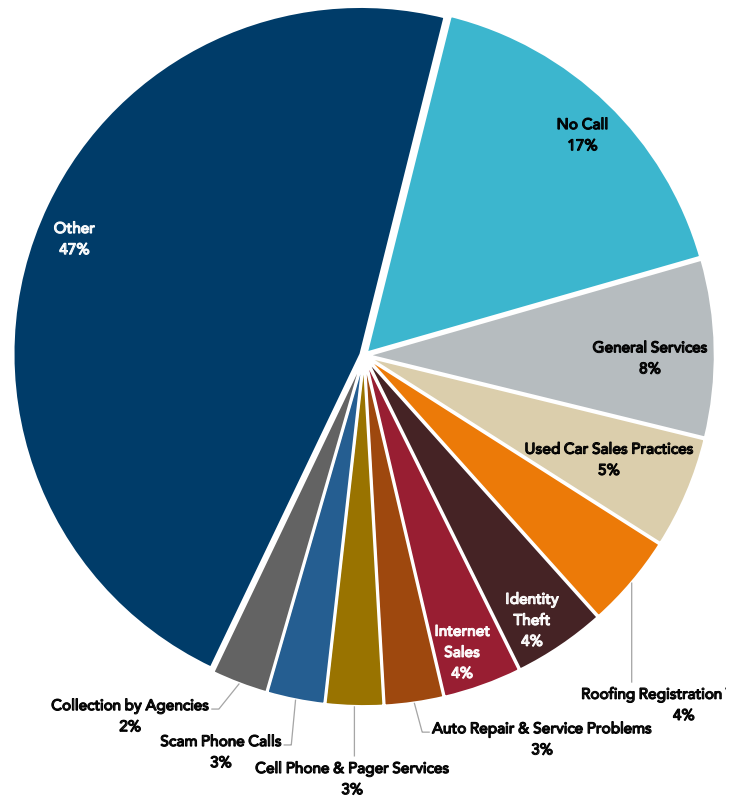
\*2009 and 2010 data were reported based on Fiscal Years.

*A new online investigation request system introduced in 2012 reduced the number of investigation requests by more accurately directing requests to other agencies in areas where the Attorney General's Office does not have jurisdiction.*

## Investigative Requests Received by Category (Total: 3,057)

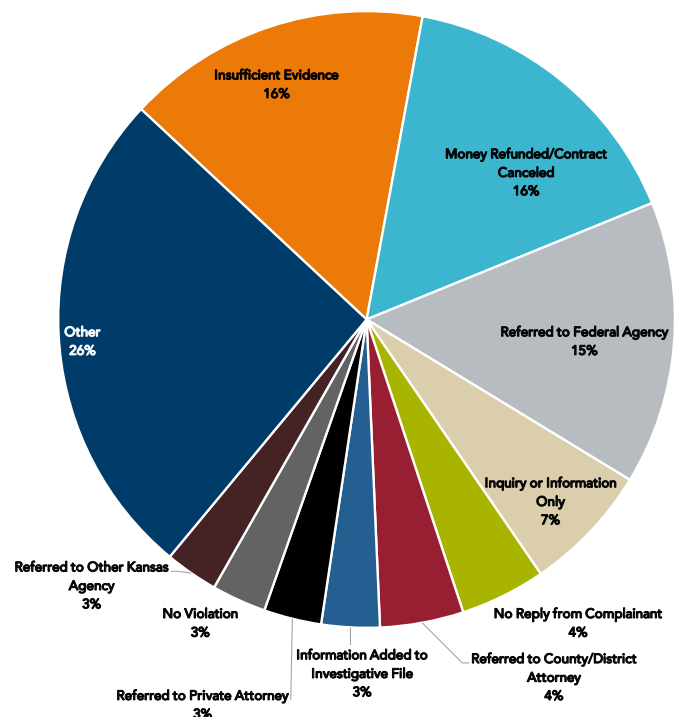


## Investigative Requests Closed by Category (Total: 3,013)



## Disposition of Complaints

1. Insufficient Evidence
2. Money Refunded/Contract Cancelled
3. Referred to Federal Agency
4. Inquiry or Information Only
5. No Reply from Complainant
6. Referred to County or District Attorney
7. Information Added to Investigative File
8. Referred to Private Attorney
9. No Violation
10. Referred to Other Kansas Agency



# Consumer Education and Outreach

In addition to investigating and prosecuting violations of the Kansas Consumer Protection Act, the Division is responsible for providing educational presentations and sharing free materials with Kansas consumers. In 2019, Attorney General Schmidt and his staff participated in 50 events around Kansas.

Additionally, the Consumer Protection Division staff fielded more than 13,000 phone calls and 12,000 emails.

The *In Your Corner Kansas* website continues to provide resources every hour of every day to consumers who need assistance. In 2019, the website was visited by 47,711 unique users, with a total of 195,619 page views. Monthly Consumer Corner articles distributed state-wide provide timely warnings and updates on scams and important protection information.

National Consumer Protection Week was again observed by providing consumers the opportunity to shred important personal documents for free in 10 locations throughout the state. More than 1,000 Kansans dropped off 44,000 pounds of documents for destruction.

The attorney general's office, in conjunction with the American Bar Association, has acquired a traveling exhibit commemorating the 800th anniversary of the signing of the *Magna Carta*. In 2019, the office continued to partner with judges in Kansas judicial districts to host the exhibit in their communities. Over the course of the year, more than 1,000 teachers, students and members of the public at eight locations in six judicial districts were able to visit the display. The office plans to continue sharing the exhibit around the state in the coming years.

## Legislative Updates

### Scrap Metal Theft Reduction Act

In 2019, the Legislature passed **House Bill 2248**, which amended and delayed implementation of certain provisions of the Scrap Metal Theft Reduction Act (K.S.A. 50-6,109 et seq.) until July 1, 2020. Among those provisions amended by HB 2248 were:

- the responsibility to establish and maintain a database as a central repository for information required to be provided under the Act was transferred from the attorney general to the Kansas Bureau of Investigation with implementation to be in place by July 1, 2020;
- the statutory cap on the registration fee for scrap metal dealers was lowered from \$1,500 to \$500 and registration is not required until July 1, 2020;
- provisions allowing the attorney general to conduct a criminal history background check on scrap metal dealer registration applicants to ensure compliance with the disqualifying criminal history requirements of the statute were repealed.

The attorney general's office is working with the KBI to implement the provisions that begin on July 1, 2020. The office also continues to accept complaints from individuals who believe a scrap metal dealer has violated the provisions of the statute that have remained in effect.

### Kansas Consumer Protection Act

**House Bill 2248** also contained a provision amending the Kansas Consumer Protection Act (KCPA) by deleting from the definition of "supplier" an exemption that stated, "Supplier does not include any bank, trust company or lending institution which is subject to state or federal regulation with regard to disposition of repossessed collateral by such bank, trust company or lending institution." The definition of "consumer transaction" was amended to state that a "Consumer transaction" does not include the disposition of repossessed collateral by any supplier that is subject to and compliant with any state or federal law or rules and regulations with regard to disposition of such repossessed collateral."

The purpose of this amendment was to clarify that only those transactions involving disposition of repossessed collateral are exempted from the KCPA, not all consumer transactions conducted by those institutions.



# Litigation Summary

## **Schmidt vs. Acquire Health, LLC d/b/a Kansas Prescription Assistance Program d/b/a USA Medical Card**

*Shawnee County, 2019-CV-103*

Filed February 12, 2019

Consent Judgment obtained February 15, 2019

The attorney general filed suit for violations of the Kansas Consumer Protection Act involving failing to properly register with the secretary of state before distributing discount cards to Kansas consumers. The court awarded \$10,000.

## **Schmidt v. All Seasons Brokerage, LLC**

*Shawnee County, 2019-CV-631*

Filed August 29, 2019

Default Judgment obtained November 21, 2019

The attorney general filed suit for failure to respond to an investigative subpoena. The court banned the defendants from soliciting, advertising or otherwise engaging in consumer transactions until they comply with the subpoena.

## **Schmidt v. Justin M Bogina, an individual and Auto Acceptance Center Corp, a corporation**

*Shawnee County, 2017-CV-745*

Filed November 3, 2017

Consent Judgment obtained February 1, 2019

The attorney general filed suit for violations of the Kansas Consumer Protection Act involving deceptive and unconscionable acts including deceptive advertising and failure to provide auto titles. In January 2018, the court entered a default judgment after the defendant failed to respond to the attorney general's lawsuit. The defendant later filed a motion to set aside the default judgment. This motion was resolved in February 2019 with the filing of a consent judgment. In the consent judgment the court permanently banned the defendant from soliciting, advertising or otherwise engaging in on any consumer transactions related to car sales and awarded \$210,000 in civil penalties and \$9,191.65 in investigative fees.

## **Schmidt vs. CarGuardian Warranty, LLC**

*Shawnee County, 2019-CV-106*

Filed February 12, 2019

Consent Judgment obtained February 14, 2019

The attorney general filed suit for violations of the Kansas Consumer Protection Act and the Kansas No Call Act involving unsolicited consumer telephone calls to Kansas consumers whose telephone numbers are listed on the National Do Not Call Registry. The court awarded \$10,000 in No Call investigative fees, and the defendant was permanently enjoined from making or causing to be made unsolicited consumer telephone calls in Kansas.

## **Schmidt v. Oladipo Fajimolu d/b/a Oladipo Dealership**

*Riley County, 2019-CV-238*

Filed October 1, 2019

Default Judgment obtained November 27, 2019

The attorney general filed suit for violations of the Kansas Consumer Protection Act related to failure to deliver a title to a vehicle sold to a consumer and depriving the consumer from receiving a material benefit from the transaction. The court awarded \$10,000 in civil penalties, \$3,268.50 in consumer restitution, and \$725.25 in investigative fees and expenses.

## **Schmidt v. Nicholas Ford d/b/a Central RV, Inc.**

*Franklin County, 2018-CV-102*

Filed December 12, 2018

Consent Judgment obtained May 6, 2019

The attorney general filed suit for violations of the Kansas Consumer Protection Act involving sale of salvage recreational vehicles without disclosing salvage history and selling without a title. Central RV also disclaimed the implied warranty of merchantability and fitness for a particular purpose including selling “with all faults.”

The court awarded \$161,000 in civil penalties with \$131,000 suspended on the condition that the defendants do not violate the Kansas Consumer Protection Act. The court awarded \$10,000 for investigation costs. No consumer restitution was claimed.

## **Schmidt v. Funk Fest Concerts, Inc.**

*Shawnee County, 2018-CV-865*

Filed November 16, 2018

Summary Judgment obtained October 17, 2019

The attorney general filed suit for violations of the Kansas Consumer Protection Act involving the failure to include adequate disclosures. The company advertised a concert as “rain or shine.” The event was canceled about halfway through due to storms. No refunds were given. The court awarded \$299,100 in civil penalties, \$364,492.50 in consumer restitution, and \$1,950 in investigative fees.

## **Schmidt v. Garst Construction, LLC**

*Shawnee County, 2019-CV-198*

Filed March 14, 2019

Dismissed May 3, 2019

The attorney general filed suit for failing to respond to a subpoena. The suit was dismissed when a subpoena response was received.

## **Schmidt v. Mike B. Gorman et al.**

*Shawnee County, 2015-CV-000387*

Filed on July 6, 2015

Summary Judgment obtained on April 15, 2019

The attorney general filed suit for violations of the Kansas Consumer Protection Act involving door-to-door sales including failure to give notice of the three-day right to cancel and failure to complete work agreed upon or provide refunds. The court awarded consumer restitution in the amount of \$160,235 and \$135,000 in civil penalties. In addition, the court banned the defendants from soliciting, advertising or otherwise engaging in consumer transactions, specifically door-to-door related transactions.

## **Schmidt v. Harmonious Enterprises, Inc. and 911 Help Now d/b/a 911HelpNow.Com**

*Shawnee County, 19-CV-115*

Filed February 18, 2019

Consent Judgment obtained February 25, 2019

The attorney general filed suit for violations of the Kansas Consumer Protection Act involving failure to state a material fact in the course of business, which prevented a consumer from receiving a material benefit from the transaction. The attorney general alleged the defendant advertised capabilities of its medical alert system which it did not have. The court awarded \$692.25 in investigative fees and \$50,000 in civil penalties. The defendants were also ordered to provide specific language in their sales contract and advertisements moving forward.

## **Schmidt v. I.G. Construction, LLC**

*Doniphan County, 2019-CV-17*

Filed July 18, 2019

Consent Judgment obtained July 19, 2019

The attorney general filed suit for violations of the Kansas Consumer Protection Act involving the defendants' door-to-door sales practices. The suit alleged the defendants failed to give the consumers' notice of their three-day right to cancel, failed to provide a written receipt containing the notice of the right to cancel the transaction, and negotiated payment prior to midnight of the fifth business day following the transaction. The court awarded \$6,000 in civil penalties and \$24,500 in consumer restitution.

## **Schmidt v. Leon F. Jackson, an individual d/b/a Pave the Way**

*Shawnee County, 2018-CV-191*

Filed March 2, 2018

Default Judgment obtained February 28, 2019

The attorney general filed suit for violations of the Kansas Consumer Protection Act involving door-to-door sales including failure to give notice of the three-day right to cancel. The court awarded \$2,750 in consumer restitution, \$2,046.46 in investigative fees, and \$10,000 in civil penalties. In addition, Leon Jackson and any employees, agents, and successors were permanently banned from soliciting, advertising or otherwise engaging in consumer transactions or door-to-door sales in the state of Kansas.

## **Schmidt v. Zachary Lippa, an individual d/b/a Pacific Tool & Machinery, Pacific Management Group, aka Pacific Tool Co**

*Shawnee County, 2018-CV-41*

Filed January 11, 2018

Default Judgment obtained December 31, 2019

The attorney general filed suit for violations of the Kansas Consumer Protection Act involving the failure to deliver merchandise paid for by the consumer. In April 2018, the Court issued a default judgment after the defendant failed to respond to the lawsuit. A motion by the defendant to set aside the default judgment was granted in August 2018, and the court twice granted the defendant additional time to respond. The court denied defendant's motions to dismiss and to strike the attorney general's petition. After the defendant failed to appear at a pre-trial conference as ordered, the defendant was sanctioned and default judgment was entered. The court awarded \$20,000 in civil penalties, \$19,425 in consumer restitution, and \$3,142.50 in investigative fees.

## **Schmidt v. Kurt Miller, d/b/a Gold Rush Jewelry & Coin**

*Shawnee County, 2019-CV-768*

Filed October 17, 2019

Default Judgment obtained November 22, 2019

The attorney general filed suit for violations of the Kansas Consumer Protection Act involving failing to provide a ring after receiving payment. The court awarded \$20,000 in civil penalties, \$6,693 in consumer restitution, and \$1,106.25 in investigative fees.

## **Schmidt v. Guy Neighbors d/b/a Advocates for Justice Paralegal Service a/k/a Advocates for Justice**

*Shawnee County, 2018-CV-62*

Filed January 19, 2018

Injunctive Relief granted May 21, 2018

Ratified by the Court June 25, 2019

The attorney general filed suit against the defendant for the enforcement of a subpoena. The petition was filed for the purpose of obtaining injunctive relief enjoining the defendant from doing business in Kansas until the defendant complied with the previously issued subpoena. The Amended Temporary Restraining Order was

granted on May 21, 2018 and upheld by the court on July 13, 2018. In 2019, the court ratified the order banning the defendant from soliciting, advertising or otherwise engaging in consumer transactions until he complies with the subpoena.

### **Schmidt v. Shawn Parcels, et al.**

*Shawnee County, 2019-CV-233*

Filed March 22, 2019

The attorney general filed suit for violations of the Kansas Consumer Protection Act involving violations of the Kansas Consumer Protection Act and the Kansas False Claims Act. The defendants are alleged to have conducted coroner-ordered autopsies and private autopsies without the presence of a pathologist. The court ordered a receivership to take custody of biological samples held by the defendants for eventual release to family members of the deceased. Consumer restitution is claimed. The case remains pending.

### **Schmidt v. Purdue Pharma**

*Shawnee County, 2019-CV-369*

Filed May 16, 2019

The attorney general filed suit for violations of the Kansas Consumer Protection Act involving the marketing of opioid products, including OxyContin, in both direct marketing materials to consumers and materials provided to doctors. Purdue Pharma declared bankruptcy in September 2019, and Kansas has agreed to a voluntary stay of the litigation. The case remains pending.

### **Schmidt v. Vicente San Roman**

*Wyandotte County, 2019-CV-915*

Filed on November 26, 2019

Consent Judgment obtained on December 3, 2019

The attorney general filed suit for violations of the Kansas Consumer Protection Act involving failure to include the required disclosures under the Notario Publico Statute, K.S.A. 53-121(a). The court awarded \$7,500 in investigative fees. The consent judgment also requires the defendant to remove all references to “notario publico,” “notaria publica,” or any form thereof from any and all advertisements, notices, letterheads or signs, unless the proper disclosures under K.S.A. 53-121(a) are prominently displayed.

### **Schmidt v. Jason Spencer an individual and Student Loan Relief, LLC**

*Shawnee County, 2018-CV-194*

Filed on February 13, 2019

Judgment obtained on August 2, 2019

The attorney general filed suit for failure to respond to an investigative subpoena. The court banned the defendants from soliciting, advertising or otherwise engaging in consumer transactions until they comply with the subpoena.

### **Schmidt v. Sunflower Senior Solutions, Inc.**

*Shawnee County, 2019-CV-303*

Filed April 23, 2019

Consent Judgment obtained April 23, 2019

The attorney general filed suit for violations of the Kansas Consumer Protection Act and the Kansas No Call Act involving unsolicited consumer telephone calls to Kansas consumers whose telephone numbers are listed on the National Do Not Call Registry. The court awarded \$10,000 in investigative fees and civil penalties. In addition, Sunflower Senior Solutions, Inc., was permanently enjoined from making or causing to be made unsolicited consumer telephone calls.

## **Schmidt v. Touchstone Communications-II, LLC**

*Shawnee County, 19-CV-640*

Filed September 3, 2019

Consent Judgment obtained September 4, 2019

The attorney general filed suit for violations of the Kansas Consumer Protection Act and the Kansas No Call Act involving unsolicited consumer telephone calls to Kansas consumers whose telephone numbers were listed on the National Do Not Call Registry. The court awarded \$10,000 in investigative fees. In addition, Touchstone Communications-II, LLC, was permanently enjoined from causing to be made unsolicited telephone calls to any Kansas consumers.

## **Schmidt v. Willie Vinson d/b/a Willie Vinson Auto**

*Greenwood County, 2019-CV-23*

Filed August 29, 2019

Consent Judgment obtained August 31, 2019

The attorney general filed suit for violations of the Kansas Consumer Protection Act involving the defendant entering into a consumer transaction that was excessively one-sided in favor of the defendant resulting in the consumer being unable to receive a material benefit. The court awarded \$4,566.25 in consumer restitution and \$4,000 in suspended civil penalties dependent on compliance with the Consent Judgment.

## **Schmidt v. Marvin Wood and MWA Machine Co., Inc.**

*Shawnee County, 2019-CV-893*

Filed December 4, 2019

The attorney general filed suit for violations of the Kansas Consumer Protection Act relating to the defendant accepting payment for a machine purchased by a Kansas consumer and failing deliver it. The case remains pending.

## **Schmidt v. 4-5-6 Chevy Trucks, LLC**

*Wyandotte County, 2019-CV-809*

Filed October 22, 2019

The attorney general filed suit for violations of the Kansas Consumer Protection Act involving the defendant allegedly entering into consumer transactions that were excessively one-sided in favor of the defendant resulting in the consumers being unable to receive a material benefit from the transactions. The case remains pending.

# **Multistate Litigation**

## **Career Education Corp.**

Assurance of Voluntary Compliance obtained January 2, 2019

The attorney general, in cooperation with other states, investigated the company for violations of the Kansas Consumer Protection Act involving the use of unfair and deceptive practices during recruitment and enrollment related to post-secondary educational programs. CEC resolved the complaint by agreeing to pay \$50,000, forego collection of any qualifying student debt and follow specific advertising and recruitment requirements.

## **Schmidt v. Equifax, Inc.**

*Shawnee County, 2019-CV-546*

Filed July 22, 2019

Consent Judgment obtained July 22, 2019

The attorney general filed suit for violations of the Kansas Consumer Protection Act involving a data breach, which occurred in 2017 involving more than 1.1 million Kansans. The court awarded \$1,352,358.48 in education and enforcement funds. Under the terms of the settlement, Equifax agreed to provide a Consumer Restitution



Fund of up to \$425 million – with \$300 million dedicated to consumer redress. If the \$300 million is exhausted, the fund can increase by up to an additional \$125 million. The company will also offer affected consumers extended credit monitoring services for a total of 10 years. The consent judgment also requires the defendant to implement and maintain additional safeguards to protect consumer information.

### **Schmidt v. Fiat Chrysler Automotive**

*Shawnee County, 2019-CV-121*

Filed February 18, 2019

Consent Judgment obtained February 28, 2019

The attorney general joined a multistate settlement against Fiat Chrysler for violations of the Kansas Consumer Protection Act. Fiat Chrysler manufactured, marketed, advertised, and/or engaged in distribution of 2014-2016 diesel Ram 1500 and Jeep Grand Cherokees that were equipped with emission control software containing an “auxiliary emission control devices” or defeat devices. These devices caused vehicles to emit excessive and illegal amounts of pollution. Fiat Chrysler knowingly used defeat devices to cheat the federal emissions tests and concealed those defeat devices from consumers and regulators.

The court awarded \$655,625 to Kansas. Additionally, Fiat Chrysler will fund a restitution program for prior and current owners and lessees of the diesel vehicles through multi-district litigation and Department of Justice consent decrees.

### **FTC, 50 States, and DC v. Cancer Fund of America, Inc., et al.**

*U.S. District Court for the District of Arizona, 2:15-CV-00884-NVW*

Filed May 18, 2015

Stipulated Permanent Injunctions obtained against Children’s Cancer Fund of America, The Breast Cancer Society, Kyle Effler, Rose Perkins, and James Reynolds, Jr. May 19, 2015.

Stipulated Permanent Injunctions obtained against Cancer Fund of America, Cancer Support Services, and James Reynolds, Sr. April 1, 2016

Final Distribution Order obtained March 19, 2019

The attorney general, with 49 other states, the District of Columbia, and the Federal Trade Commission, filed suit against four cancer charities and the four individuals who administered them, alleging that all the defendants participated in a massive, nationwide fraud, by fundraising under the guise of helping people suffering from cancer, while using the lion’s share of the funds for personal benefit and third-party solicitors. The states previously entered into settlements with two of the charitable defendants and three individual defendants in 2015, which were filed concurrently with the complaint. Litigation and related discovery continued against non-settling parties, Cancer Fund of America, Cancer Support Services, and James Reynolds, Sr. The parties reached a settlement agreement, and stipulations for a temporary receiver and preliminary injunction against Cancer Fund of America, Cancer Support Services, and James Reynolds, Sr. were filed on March 29, 2016. The court approved the stipulations and injunction on April 1, 2016.

A receiver was appointed by the Arizona court to liquidate the assets of the charities. The wind down process continued until the end of 2018. In March 2019, the court entered an order approving the states’ request that the remaining assets be transferred to Rockefeller Philanthropy Advisors and be distributed NCI-designated Cancer Care Centers targeting breast and pediatric cancer.

### **ITT Educational Services, Inc.**

Assurance of Voluntary Compliance obtained June 20, 2019

The attorney general, in cooperation with other states, investigated ITT Educational Services, Inc., for violations of the Kansas Consumer Protection Act involving deceptive acts and practices in obtaining student loans. Kansas was awarded \$1,003,007.14 in consumer restitution in an Assurance of Voluntary Compliance.

## **Schmidt v. Johnson & Johnson, and Ethicon, Inc.**

*Shawnee County, 2019-CV-000760*

Filed October 17, 2019

Consent Judgment obtained October 18, 2019

The attorney general filed suit for violations of the Kansas Consumer Protection Act involving misrepresenting characteristics, benefits, range of risks, complications, or qualities of their surgical mesh devices. The court awarded injunctive relief and \$1,834,577.64.

## **Indiana et al v. Medical Informatics Engineering**

*U.S. District Court for the Northern District of Indiana, 3:18-cv969*

Filed *pro hac vice* December 3, 2018

Consent Judgment obtained May 28, 2019

The attorney general filed suit for violations of the Kansas Consumer Protection Act for a 2015 data breach involving consumer patient files. The data breach affected more than 28,000 Kansans. The court awarded \$31,849 in investigative fees. The consent judgment also requires the defendant to implement and maintain appropriate safeguards to protect consumer information.

## **Neiman Marcus**

Assurance of Voluntary Compliance obtained January 8, 2019

The attorney general, in cooperation with other states, investigated Nieman Marcus for violations of the Kansas Consumer Protection Act for a 2013 data breach involving several hundred Kansans. Kansas was awarded \$20,365.05 in an Assurance of Voluntary Compliance. The agreement also requires the company to implement and maintain additional safeguards to protect consumer information.

## **New Hope Foundation, Inc.**

Settlement Agreement obtained July 8, 2019

The attorney general, along with seven other states, entered into a settlement agreement to resolve and investigate the charitable violations of New Hope Foundation, Inc., and its board members. The settlement dissolved the organization and enjoined the individual board members from certain charitable activities, including holding a position in a charitable organization, charitable fundraising or holding charitable assets. Kansas received \$10,556.98 in fees and penalties in the settlement.

## **Schmidt v. Premera Blue Cross**

*Shawnee County, 2019-CV-515*

Filed July 11, 2019

Consent Judgment obtained July 11, 2019

The attorney general filed suit for violations of the Kansas Consumer Protection Act involving a data breach that occurred between May 2014 and March 2015 involving personal information, including private health information of more than 19,000 Kansans. The court awarded \$56,915.83. The consent judgment also requires the defendant to implement physical and technical safeguards to reasonably and appropriately protect consumer information.

## **Alabama et al v. PHH Mortgage Corp.**

*United States District Court for the District of Columbia, 1:18-cv-9-TFH*

Filed January 3, 2018

Consent Judgment obtained January 3, 2018

The attorney general filed suit for violations of the Kansas Consumer Protection Act involving mortgage servicing practices and standards, such as misapplying payments, failing to maintain accurate account statements, and charging unauthorized fees. Disbursement totals were finalized on April 30, 2019, in the amount of \$243,666.96 returned to Kansas consumers.

## **Schmidt v. Robert Bosch GmbH**

*Shawnee County, 2019-CV-000236*

Filed March 26, 2019

Consent Judgment obtained March 26, 2019

The attorney general joined a multi-state settlement against Bosch for violations of the Kansas Consumer Protection Act. Bosch knowingly provided emission control software containing an “auxiliary emission control devices” or defeat device that caused the vehicles to emit excessive and illegal amounts of pollution. Bosch assisted and participated with Volkswagen and Fiat Chrysler by developing, programming and calibrating the engine and emission control software to cause illegal emissions.

The court awarded Kansas \$603,900 for consumer protection and environmental claims. Bosch will make available \$275,500,000 in consumer restitution in the multi-district settlement administered by Fiat Chrysler.

## **Schmidt v. Volkswagen**

*Shawnee County, 2017-CV-330*

Filed May 16, 2017

Consent Judgment obtained May 19, 2017

The attorney general entered into a Consent Judgment with Volkswagen settling claims the defendants violated the Kansas Consumer Protection Act prohibiting unconscionable or deceptive trade practices by marketing, selling and leasing diesel vehicles equipped with illegal and undisclosed defeat device software. Since the judgment was originally entered in 2017, \$56,057,719 in restitution has been issued to Kansas consumers. Restitution payments will continue to be paid out to consumers in 2020. Payments to the State of Kansas from the Volkswagen Environmental Mitigation Trust Fund are being overseen by the Kansas Department of Health and Environment (KDHE) for specified projects to reduce nitrogen oxide emissions. In 2019, KDHE offered 15 awards for the partial reimbursement of eligible school bus replacements, totaling \$309,000. Future opportunities for related funding have been and will continue to be announced by KDHE.

## **Tennille v. Western Union**

*U.S. District Court for the District of Colorado, 1:09-cv-00938-JLK-KMT*

Order authorizing *cy pres* payment entered on April 15, 2019

Private plaintiffs filed an action against Western Union in 2009, alleging the company had failed to timely notify consumers when their transactions were unredeemed and failed to undertake timely and reasonable measures to return the funds to the remitter. The parties entered into a settlement resolving the claims on December 12, 2012, which was approved by the court on June 26, 2013. The settlement included a provision for creation of a *cy pres* fund payable to the states in proportion to the funds that would have escheated to the state pursuant to unclaimed property law. In order to claim these funds, the attorney general and the state treasurer jointly executed a release of claims to recover \$456,960.72 in unclaimed Kansas funds. On April 15, 2019, the court authorized payment from the *cy pres* fund to 31 states, including Kansas. The funds paid to Kansas were deposited in the Kansas Unclaimed Property Fund and can be claimed by the appropriate parties pursuant to Kansas unclaimed property laws.



# Antitrust Investigations

The State of Kansas conducted investigations of companies for potential antitrust violations in the following areas:

- Pharmaceutical Drugs
- Technology Industry
- Telecommunications Industry

## Antitrust Enforcement Actions

### Generic Pharmaceutical Pricing Antitrust Litigation

*Cases consolidated in Multidistrict Litigation in U.S. District Court for the Eastern District of Pennsylvania*

#### **State of Connecticut, et al. v. Aurobindo Pharma USA, Inc., et al.**

Complaint filed December 14, 2016 in District of Connecticut  
Amended Complaint filed March 1, 2017 in District of Connecticut  
Case Transferred to Multidistrict Litigation on April 25, 2017  
Consolidated Amended Complaint filed June 18, 2018

#### **State of Connecticut, et al. v. Teva, Inc., et al.**

Complaint filed May 10, 2019 in District of Connecticut  
Case Transferred to Multidistrict Litigation on May 22, 2019  
Amended Complaint filed November 4, 2019

The Kansas attorney general and attorneys general of 19 other states filed suit under seal against six pharmaceutical companies in the District of Connecticut in December 2016, alleging that they entered into illegal conspiracies in order to unreasonably restrain trade, artificially inflate and manipulate prices and reduce competition in the United States for two drugs: doxycycline hyclate delayed release, an antibiotic, and glyburide, an oral diabetes medication. Since the initial filing, the plaintiff states increased to include 47 states, the District of Columbia and Puerto Rico, and the litigation was transferred through the multidistrict litigation process to the Eastern District of Pennsylvania. The amended complaint includes 12 additional pharmaceutical companies and two individual pharmaceutical company executives as defendants and adds 13 additional drugs to the alleged conspiracy claims. The case remains pending.

The Kansas attorney general and the majority of the litigating states entered into settlement and cooperation agreements in March 2017 with two former executives of Heritage Pharmaceuticals, Inc. In 2019, the Kansas attorney general entered into similar agreements with several more executives of other companies.

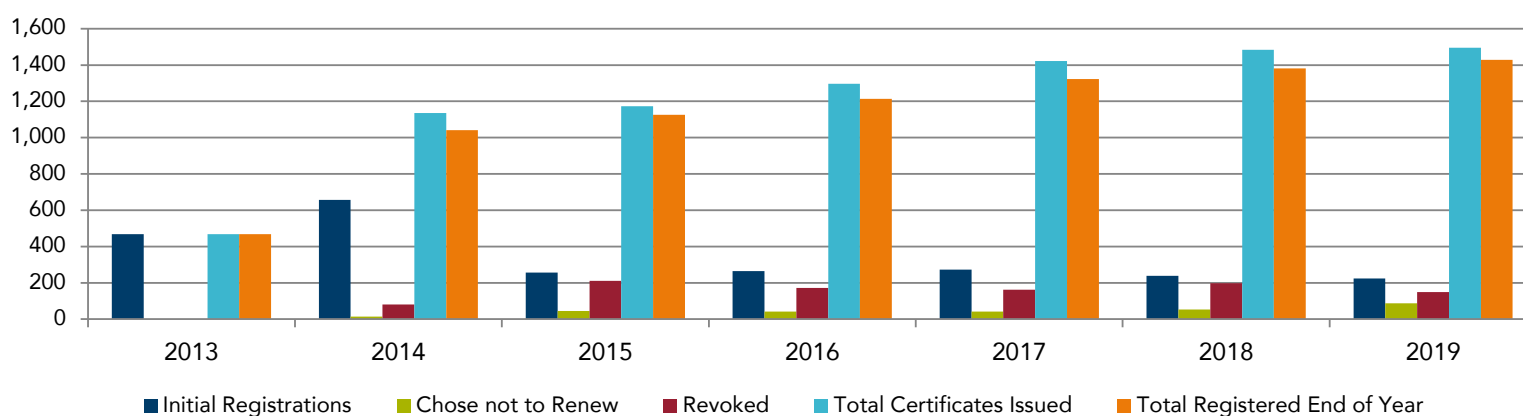
A second complaint was filed in May 2019 by the Kansas attorney general and 43 other states raising allegations about more than 100 additional generic drugs. The second action was also transferred to the Eastern District of Pennsylvania as part of the multidistrict litigation proceeding. An amended complaint, filed in November 2019, added nine additional plaintiff states and territories and an additional defendant, bringing the total to 20 corporate defendants and 16 individual defendants. The case remains pending.

# Kansas Roofing Registration Act

2019 was the sixth full year of operation for the Roofing Registration Unit. In addition to processing registrations, staff from the unit traveled 31 times to 21 different locations in 2019. Staff traveled to canvass storm-damaged locations and speak with consumers who were approached by roofing contractors. They also traveled to locations where complaints were filed against unregistered roofers in order to investigate potential violations of the Act.

- Initial registration certificates issued: 223
- Total registration certificates issued during 2019: 1,495
- Roofing contractors who chose not to renew: 87
- Registration certificates revoked: 149
- New exempt general contractor affidavits: 13
- Total contractors in good standing at the end of 2019: 1,428

More information and a current list of registrants are available at [www.ag.ks.gov/roofing](http://www.ag.ks.gov/roofing).



## Roofing Registration Act Enforcement Actions

### Schmidt v. 4R Construction Company, LLC

*Shawnee County, 2019-CV-383*

Filed May 21, 2019

Consent Judgment obtained May 22, 2019

The attorney general filed suit for violations of the Kansas Roofing Registration Act for operating as a roofing contractor in Kansas without the necessary liability coverage. The court awarded \$4,000 in civil penalties. The defendant agreed to comply with the Kansas Roofing Registration Act while acting as a roofing contractor and performing roofing services in the State of Kansas.

### Schmidt v. Absolute Roofseal, LLC

*Johnson County, 19-CV-6153*

Filed November 15, 2019

Consent Judgment obtained November 20, 2019

The attorney general filed suit for violations of the Kansas Roofing Registration Act involving the defendant performing and/or soliciting roofing-related services in Kansas without being properly registered with the Office of Attorney General. The court awarded \$2,500 in civil penalties. The defendant agreed to comply with the Kansas Roofing Registration Act while acting as a roofing contractor and performing roofing services in the State of Kansas.

## **Schmidt vs. Apex Remodeling and Contracting, LLC**

*Sedgwick County, 2019-CV-605-OT*

Filed March 19, 2019

Consent Judgment obtained March 19, 2019

The attorney general filed suit for violations of the Kansas Roofing Registration Act involving the defendant performing and/or soliciting roofing-related services in Kansas without being properly registered with the Office of Attorney General. The court awarded \$2,500 in civil penalties. The defendant agreed to comply with the Kansas Roofing Registration Act while acting as a roofing contractor and performing roofing services in the State of Kansas.

## **Schmidt v. Balboa Restoration & Renovation, LLC**

*Johnson County, 19-CV-2451*

Filed May 7, 2019

Consent Judgment obtained May 8, 2019

The attorney general filed suit for violations of the Kansas Roofing Registration Act involving the defendant performing and/or soliciting roofing-related services in Kansas without being properly registered with the Office of Attorney General and failing to comply with all laws and ordinances, including those requiring local permits to be obtained prior to performing roofing-related services. The court awarded \$8,000 in civil penalties. The defendant agreed to comply with the Kansas Roofing Registration Act while acting as a roofing contractor and performing roofing services in the State of Kansas.

## **Schmidt v. Balboa Restoration & Renovation, LLC**

*Johnson County, 19-CV-2432*

Filed May 7, 2019

Dismissal obtained September 24, 2019

This case was an inadvertent duplicate filing of the above case, number 19-CV-2451. The case was dismissed when the error was discovered.

## **Schmidt v. Boren's Roofing, Inc.**

*Greenwood County, 2019-CV-6*

Filed January 25, 2019

Consent Judgment obtained January 27, 2019

The attorney general filed suit for violations of the Kansas Roofing Registration Act involving the defendant failing to comply with all laws and ordinances, including those requiring local permits to be obtained prior to performing roofing-related services. The court awarded \$2,500 in civil penalties. The defendant agreed to comply with the Kansas Roofing Registration Act while acting as a roofing contractor and performing roofing services in the State of Kansas.

## **Schmidt v. Wanderson C. De Araujo d/b/a Frank Construction**

*Smith County, 2019-CV-7*

Filed May 8, 2019

Consent Judgment obtained May 8, 2019

The attorney general filed suit for violations of the Kansas Roofing Registration Act involving the defendant performing and/or soliciting roofing-related services in Kansas without being properly registered with the Office of Attorney General. The court awarded \$2,500 in civil penalties. The defendant agreed to comply with the Kansas Roofing Registration Act while acting as a roofing contractor and performing roofing services in the State of Kansas.

### **Schmidt v. Garst Construction, LLC**

*Cloud County, 2019-CV-30*

Filed August 20, 2019

Consent Judgment obtained August 21, 2019

The attorney general filed suit for violations of the Kansas Roofing Registration Act involving the defendant performing and/or soliciting roofing-related services in Kansas without being properly registered with the Office of Attorney General. The court awarded \$3,750 in civil penalties. The defendant agreed to comply with the Kansas Roofing Registration Act while acting as a roofing contractor and performing roofing services in the State of Kansas.

### **Schmidt v. Garst Construction, LLC**

*Shawnee County, 2019-CV-198*

Filed March 14, 2019

Dismissed May 3, 2019

The attorney general filed suit for failing to respond to a subpoena. The suit was dismissed when a subpoena response was received.

### **Schmidt v. Russ Hensley d/b/a Russ Hensley Construction**

*Clark County, 2019-CV-000010*

Filed March 13, 2019

Consent Judgment obtained March 15, 2019

The attorney general filed suit for violations of the Kansas Roofing Registration Act involving the defendant performing and/or soliciting roofing-related services in Kansas without being properly registered with the Office of Attorney General. The court awarded \$3,000 in civil penalties. The defendant agreed to comply with the Kansas Roofing Registration Act while acting as a roofing contractor and performing roofing services in the State of Kansas.

### **Schmidt v. KCRS, LLC and KCRS Restoration Contractors, LLC d/b/a Kansas City Roofing Service**

*Shawnee County, 19-CV-03906*

Filed July 23, 2019

Consent Judgment obtained July 31, 2019

The attorney general filed suit for violations of the Kansas Roofing Registration Act involving the defendant performing and/or soliciting roofing-related services in Kansas without being properly registered with the Office of Attorney General. The court awarded \$10,000 civil penalties. The defendant agreed to comply with the Kansas Roofing Registration Act while acting as a roofing contractor and performing roofing services in the State of Kansas.

### **Schmidt v. Marc Krier d/b/a Marc Krier Construction**

*Clark County, 2019-CV-14*

Filed April 2, 2019

Consent Judgment obtained April 2, 2019

The attorney general filed suit for violations of the Kansas Roofing Registration Act involving defendant performing and/or soliciting roofing-related services in Kansas without being properly registered with the Office of Attorney General. The court awarded \$2,750 in civil penalties. The defendant agreed to comply with the Kansas Roofing Registration Act while acting as a roofing contractor and performing roofing services in the State of Kansas.

### **Schmidt v. Lionheart Contracting, LLC**

*Shawnee County, 2019-CV-556*

Filed July 26, 2019

Consent Judgment obtained August 2, 2019

The attorney general filed suit for violations of the Kansas Roofing Registration Act involving the defendant performing and/or soliciting roofing-related services in Kansas without being properly registered with the Office of Attorney General. The court awarded \$2,500 in civil penalties. The defendant agreed to comply with the Kansas Roofing Registration Act while acting as a roofing contractor and performing roofing services in the State of Kansas.

### **Schmidt v. Marathon Roofing, LLC**

*Shawnee County, 2019-CV-584*

Filed August 7, 2019

Injunctive Relief obtained September 25, 2019

The attorney general filed suit against the defendant for the enforcement of the subpoena. The petition was filed for the purposes of obtaining injunctive relief enjoining defendant from doing business in the State of Kansas until defendant obeyed the previously issued subpoena. The court banned the defendant from soliciting, advertising or otherwise engaging in consumer transactions until it complies with the subpoena.

### **Schmidt v. Jesus A. Melendez Heredia d/b/a Melendez Roofing, Inc.**

*Shawnee County, 2019-CV-212*

Filed on March 15, 2019

Voluntary Dismissal May 24, 2019

The attorney general filed suit against the defendant for enforcement of a subpoena duces tecum. The petition was filed for the purposes of obtaining a temporary restraining order enjoining defendant from doing business in the State of Kansas until defendant obeyed the previously issued subpoena. After the filing of the suit, the defendant subsequently complied with the subpoena. On May 24, 2019, the case was voluntarily dismissed.

### **Schmidt v. Wilfred Molina d/b/a Molina Construction, LLC**

*Shawnee County, 2019-CV-196*

Filed on March 14, 2019

Voluntary Dismissal May 7, 2019

The attorney general filed suit against defendant for the enforcement of a subpoena duces tecum. The petition was filed for the purposes of obtaining a temporary restraining order enjoining defendant from doing business in the State of Kansas until defendant obeyed the previously issued subpoena. After the filing of the suit, defendant subsequently complied with the subpoena. On May 7, 2019, the case was voluntarily dismissed.

### **Schmidt v. New Era Innovations LLC**

*Wyandotte County, 2019-CV-000651*

Filed August 27, 2019

Consent Judgment obtained August 27, 2019

The attorney general filed suit for violations of the Kansas Roofing Registration Act involving the defendant performing and/or soliciting roofing-related services in Kansas without being properly registered with the Office of Attorney General. The court awarded \$2,500 in roofing civil penalties. The defendant agreed to comply with the Kansas Roofing Registration Act while acting as a roofing contractor and performing roofing services in the State of Kansas.

## **Schmidt v. Michael Quinn d/b/a Enviro-Logic Roofing & Restoration Services**

*Shawnee County, 2019-CV-000197*

Filed March 14, 2019

Injunctive Relief obtained July 21, 2019

The attorney general filed suit against the defendant for the enforcement of a subpoena duces tecum. The petition was filed for the purposes of obtaining injunctive relief enjoining defendant from doing business in the State of Kansas until defendant obeyed the previously issued subpoena. The court banned the defendant from soliciting, advertising or otherwise engaging in consumer transactions until he complies with the subpoena.

## **Schmidt v. Victor Torres d/b/a Torres Roofing**

*Cherokee County, 2019-CV-000028*

Filed April 2, 2019

Consent Judgment obtained April 3, 2019

The attorney general filed suit for violations of the Kansas Roofing Registration Act involving the defendant performing and/or soliciting roofing-related services in Kansas without being properly registered with the Office of Attorney General and failing to comply with all laws and ordinances, including those requiring local permits to be obtained prior to performing roofing-related services. The court awarded \$2,750 in civil penalties. The defendant agreed to comply with the Kansas Roofing Registration Act while acting as a roofing contractor and performing roofing services in the State of Kansas.

## **Schmidt vs. Marcos Vilela d/b/a KC Remodeling, LLC d/b/a KC Remodeling**

*Johnson County, 2019-CV-000823*

Filed February 13, 2019

Consent Judgment obtained February 13, 2019

The attorney general filed suit for violations of the Kansas Roofing Registration Act involving the defendant performing and/or soliciting roofing-related services in Kansas without being properly registered with the Office of Attorney General. The court awarded \$10,000 in civil penalties. The defendant agreed to comply with the Kansas Roofing Registration Act while acting as a roofing contractor and performing roofing services in the State of Kansas.

## **Schmidt v. Weaver Construction Services, LLC**

*Sedgwick County, 2019-CV-2539-OT*

Filed on December 12, 2019

Consent Judgment obtained on December 13, 2019

The attorney general filed suit for violations of the Kansas Roofing Registration Act involving the defendant performing and/or soliciting roofing-related services in Kansas without being properly registered with the Office of Attorney General. The court awarded \$3,000 in roofing civil penalties. The defendant agreed to comply with the Kansas Roofing Registration Act while acting as a roofing contractor and performing roofing services in the State of Kansas.

## **Schmidt v. Dustin Welsh d/b/a Phoenix Framing, LLC**

*Anderson County, 2019-CV-000011*

Filed April 10, 2019

Consent Judgment obtained May 21, 2019

The attorney general filed suit for violations of the Kansas Roofing Registration Act involving the defendant performing and/or soliciting roofing-related services in Kansas without being properly registered with the Office of Attorney General. The court awarded \$5,000 in civil penalties. The defendant agreed to comply with the Kansas Roofing Registration Act while acting as a roofing contractor and performing roofing services in the State of Kansas.



# Consumer Protection Division Staff



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April Bilby.....	Administrative Assistant
Susan Crouse.....	Administrative Assistant
Debra San Romani .....	Administrative Assistant

\* Denotes that staff member is no longer with the Consumer Protection Division.

\*\*Denotes staff that provide part-time support to the Division, but also have duties in other divisions within the agency.



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