OPINION SUMMARY
MISSOURI COURT OF APPEALS EASTERN DISTRICT

DIVISION ONE

KAREN COBURN,	)	No. ED108948
	)	
Appellant,	)	Appeal from the Circuit Court of
	)	the City of St. Louis
vs.	)	Cause No. 1922-CC0922
	)	
	)	Honorable Michael F. Stelzer
KRAMER & FRANK, P.C.,	)	
	)	
Respondent.	)	Filed: March 9, 2021

Karen Coburn ("Coburn" or "Appellant") appeals the circuit court's judgment granting Kramer & Frank, P.C.'s ("Kramer & Frank" or "Respondent") Motion for Judgment on the Pleadings. Appellant raises one point on appeal, arguing that the circuit court erred in granting Respondent's Motion for Judgment on the Pleadings because no order specifically appointing the special process server who served her with the summons and petition in the underlying collection lawsuit was entered by the circuit court or the circuit clerk, and thus, the default judgment entered against her in the underlying collection lawsuit was void as a matter of law for lack of personal jurisdiction. Appellant also argues that she has stated claims for violations of the Missouri Merchandising Practices Act and for unjust enrichment.

AFFIRMED.

DIVISION ONE HOLDS: As a threshold matter of justiciability, although Coburn's claims against Kramer & Frank in this case constitute a collateral attack against the default judgment entered against her in the underlying collection lawsuit, Coburn's claims are not moot because her satisfaction of the default judgment was involuntary within the meaning of Missouri mootness jurisprudence. Addressing the merits of Coburn's point on appeal, the default judgment in the underlying collection lawsuit is not void for lack of personal jurisdiction, and thus is not subject to collateral attack, because the face of the record before this Court reflects that the circuit clerk in the collection lawsuit intended to appoint the special process server who served Coburn with the summons and petition pursuant to § 504.140.1 Mo. Rev. Stat. Cum. Supp. 2019, and extrinsic evidence would be required to establish otherwise, which is not permitted in a collateral attack. At most, the default judgment was subject to *potentially* being set aside pursuant to a timely motion under Missouri Supreme Court Rule 74.06(b)(3) on the grounds of irregularity (but which is not an issue before this Court). On this basis, the circuit court in this case correctly granted Kramer & Frank's motion for judgment on the pleadings and dismissed Coburn's class action petition against Kramer & Frank, which included claims for violations of the Missouri Merchandising Practices Act (§ 407.010 *et seq*.) and for unjust enrichment.

Opinion by: Kelly C. Broniec, J.
Colleen Dolan, P.J. and Robert M. Clayton III, J. concur.

Attorney for Appellant: David T. Butsch, Christopher E. Roberts

Attorney for Respondent: James M. Brodzik

Amicus Curiae: Stephen J. Barber

THIS SUMMARY IS NOT PART OF THE OPINION OF THE COURT. IT HAS BEEN PREPARED FOR THE CONVENIENCE OF THE READER AND SHOULD NOT BE QUOTED OR CITED.