OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

CARMED 45, LLC,	)	No. ED108990
	)	
Respondent,	)	Appeal from the Circuit Court
	)	of St. Louis County
v.	)	Cause No. 17SL-CC00702
	)	
WESLEY ADAM HUFF,	)	Honorable Ellen H. Ribaudo
	)	
Appellant.	)	Filed: July 13, 2021

Wesley Huff (Huff) appeals the trial court's entry of default judgment as a sanction for discovery violations and subsequent award of liquidated damages granted to Carmed 45, LLC (Carmed 45) on Carmed 45's suit for breach of a covenant not to compete. Huff also appeals the trial court's entry of an injunction extending the non-compete period two years from the date of the judgment. Huff argues the court erred in referring discovery proceedings to a special master, adopting the special master's orders, imposing discovery sanctions, prohibiting his attorney from participating in the damages hearing, allowing Carmed 45's attorney to testify at the hearing, and awarding both liquidated damages and an injunction without evidence of harm to Carmed 45 from Huff's breach of the non-compete agreement.

AFFIRMED IN PART; REVERSED AND REMANDED IN PART.

Division Four Holds: The trial court properly granted judgment on Carmed 45's second amended petition, as it had not been abandoned upon Carmed 45's improper filing of a third amended petition. The trial court did not abuse its discretion in referring discovery to a special master, nor did the court violate Huff's due process rights in adopting the orders of the special master. We find no abuse of discretion in the trial court's imposition of sanctions against Huff due to continued discovery violations. Further, the trial court did not abuse its discretion in permitting Carmed 45's attorney to testify at the damages hearing and prohibiting Huff from presenting evidence or cross-examining witnesses at the damages hearing. We affirm the default judgment in favor of Carmed 45 and the imposition of monetary sanctions.

However, because Carmed 45 failed to produce evidence of actual damage due to Huff's breach of the non-compete clause, we must reverse the trial court's award of liquidated damages. Further, the trial court erred in extending the non-compete period because Carmed 45 failed to seek temporary injunctive relief or present any evidence of ongoing harm at the damages hearing or otherwise. Thus, we reverse the trial court's award of liquidated damages as well as the associated prejudgment interest. We also reverse the trial court's injunction extending the non-compete period. We remand to the trial court for a recalculation of damages, interest, and fees, consistent with this opinion.

Opinion by: Gary M. Gaertner, Jr., P.J.
Robert M. Clayton III, J., and Michael E. Gardner, J., concur.

Attorneys for Appellant: Sean K. Cronin, Alec N. Rosenblum
Attorneys for Respondent: Matthew J. Landwehr, Shaun C. Broeker

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.