

IN THE CHANCERY COURT OF HAMILTON COUNTY, TENNESSEE
FOR THE ELEVENTH JUDICIAL DISTRICT AT CHATTANOOGA

STATE OF TENNESSEE, *ex rel.* HERBERT)
H. SLATERY III, Attorney General and)
Reporter,)
)
Plaintiff,)
)
v.)
)
THE WITHERSPOON LAW GROUP PLLC,)
a Texas Limited liability company, *et al.*,)
)
Defendants.)

JURY DEMAND
Case No. 17-0279
Part I

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~~[PROPOSED]~~ ORDER OF JUDGMENT

This cause came to be tried by jury beginning November 9, 2021. Plaintiff, State of Tennessee appeared through its counsel. Defendants appeared in person and through counsel. The Court impaneled and swore in a jury, which heard the evidence and arguments of counsel, with Chancellor Pamela A. Fleenor presiding. The Court submitted instructions and verdict forms to the jury. On November 12, 2021, after deliberations, the jury unanimously returned a verdict in favor of the Plaintiff, State of Tennessee, as reflected in the jury verdict forms attached hereto as collective **Exhibit A** and incorporated herein. *trial exhibits 14 and 15*
1 *p.a.f*

The Court therefore ORDERS:

1. Judgment be entered against Defendant Glenn Smith in the amount of \$11,000 for which execution may issue, with Defendants the Witherspoon Law Group and Nuru Witherspoon being jointly liable for \$1,000 of that amount;

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2. Judgment be entered against Defendant Alphonso McClendon in the amount of \$40,000 for which execution may issue, with Defendants the Witherspoon Law group and Nuru Witherspoon being jointly liable for \$5,000 of that amount;
3. Judgment be entered against Nuru Witherspoon in the amount of \$45,000 for which execution may issue;
4. Post-judgment interest at the rate of 5.25% per annum is assessed against Defendants until the judgment has been paid in full, for which execution may issue.

The parties have 30 days from the entry of this Order to file any post-trial motions, including any motions for attorneys' fees and costs or permanent injunctive relief.

IT IS SO ORDERED.

ENTERED THIS ___ DAY OF _____, 2021.


PAMELA A. FLEENOR
CHANCELLOR

APPROVED AND SUBMITTED FOR ENTRY:

FOR THE STATE OF TENNESSEE:

HERBERT H. SLATERY III
Attorney General and Reporter

/s/Kelley L. Groover

KELLEY L. GROOVER B.P.R. No. 034738

Assistant Attorney General

MATTHEW F. JONES B.P.R. No. 025825

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**Admitted Pro Hac Vice*

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and exact copy of this Order has been placed in the United States Mail addressed to the following:

Kelly L. Groover
Matthew F. Jones
Jeffrey L. Hill
UBS Bldg, 20th Floor
315 Deaderick Street
Nashville, TN 37243

Dean S. Atyia
Acting Asst. Atty General
P.O. Box 20207
Nashville, TN 37202-0207

Darrell J. O'Neal
Laura Smittick
2129 Winchester Road
Memphis, TN 38116

K. Orrin Purdie
PO Box 212
McDonald, TN 37353

This the 9th day of December, 2021.

Robin L. Miller, Clerk and Master

By: 
Deputy Clerk and Master

EXHIBIT

A

Verdict No. 1 – Unauthorized Practice of Law

If you find by a preponderance of the evidence that a Defendant engaged in the Unauthorized Practice of Law by the soliciting of clients directly or indirectly without being duly licensed as a lawyer in Tennessee, you may find for the State and impose civil penalties against that Defendant in an amount not to exceed \$10,000 per violation.

(1) Question 1: Do you find that Defendant Glenn Smith engaged in solicitation of Marshe Myers (mother of Tony Coburn, Jr.) to provide legal services for the wrongful death claim arising out of the death of her child?

Yes No

If your answer to Question 1 is "Yes," you may consider imposing civil penalties against Defendant Glenn Smith. What, if any, is the amount of civil penalties you impose against Defendant Glenn Smith? \$ 10,000 (not to exceed \$10,000 per violation).

(2) Question 2: Do you find that Defendant Alphonso McClendon engaged in solicitation of Misti Nash (mother of Zoie Nash) to provide legal services for the wrongful death claim arising out of the death of her child?

Yes No

If your answer to Question 2 is "Yes," you may consider imposing civil penalties against Defendant Alphonso McClendon. What, if any, is the amount of civil penalties you impose against Defendant Alphonso McClendon? \$ 10,000 (not to exceed \$10,000 per violation).

(3) Question 3: Do you find that Defendant Alphonso McClendon engaged in solicitation of Latesha Jones (mother of Cordajya Jones) to provide legal services for the wrongful death claim arising out of the death of her child?

Yes No

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If your answer to Question 3 is "Yes," you may consider imposing civil penalties against Defendant Alphonso McClendon. What, if any, is the amount of civil penalties you impose against Defendant Alphonso McClendon? \$ 5000 (not to exceed \$10,000 per violation).

(4) Question 4: Do you find that Defendant Alphonso McClendon engaged in solicitation of Cornelius Jones (father of Cordajya Jones) to provide legal services for the wrongful death claim arising out of the death of his child?

Yes No

If your answer to Question 4 is "Yes," you may consider imposing civil penalties against Defendant Alphonso McClendon. What, if any, is the amount of civil penalties you impose against Defendant Alphonso McClendon? \$ 5000 (not to exceed \$10,000 per violation).

(5) Question 5: Do you find that Defendant Alphonso McClendon engaged in solicitation of Demetrius Wilson (mother of Keonte Wilson) to provide legal services for the wrongful death claim arising out of the death of her child?

Yes No

If your answer to Question 5 is "Yes," you may consider imposing civil penalties against Defendant Alphonso McClendon. What, if any, is the amount of civil penalties you impose against Defendant Alphonso McClendon? \$ 5000 (not to exceed \$10,000 per violation).

(6) Question 6: Do you find that Defendant Alphonso McClendon, directly or indirectly, falsely advertised himself, or held himself out as, a lawyer?

Yes No

If your answer to Question 6 is "Yes," you may consider imposing civil penalties against Defendant Alphonso McClendon. What, if any, is the amount of civil penalties you impose against Defendant Alphonso McClendon? \$ 10,000 (not to exceed \$10,000 per violation).

If your answer to either Questions 1, 2, 3, 4, 5 or 6 is "Yes," you may consider whether Defendant Nuru Witherspoon is responsible for the conduct of Defendant Glenn Smith and/or Defendant Alphonso McClendon. To find Defendant Nuru Witherspoon responsible for the conduct of Defendant Glenn Smith and/or Defendant Alphonso McClendon, you must find by a preponderance of the evidence that Defendant Nuru Witherspoon either:

(a) Ordered, or with knowledge of the specific conduct, ratified the conduct of Defendant Glenn Smith and/or Defendant Alphonso McClendon; or

(b) Had direct supervisory authority over Defendant Glenn Smith and/or Defendant Alphonso McClendon, and knew of their conduct at a time when the consequences could have been avoided or mitigated but failed to take reasonable remedial action.¹

(7) Question 7: Do you find by a preponderance of the evidence that Defendant Nuru Witherspoon is responsible for the conduct of Defendant Glenn Smith?

Yes No

If your answer to Question 7 is "Yes," you may consider imposing civil penalties against Defendant Nuru Witherspoon for the conduct of Defendant Glenn Smith. What, if any, is the amount of civil penalties you impose against Defendant Nuru Witherspoon for the conduct of Defendant Glenn Smith? \$ 10,000 (not to exceed \$10,000 per violation).

(8) Question 8: Do you find by a preponderance of the evidence that Defendant Nuru Witherspoon is responsible for the conduct of Defendant Alphonso McClendon?

Yes No

¹ Tenn. Sup. Ct. R. 8, R.P.C. 5.3

If your answer to Question 8 is "Yes," you may consider imposing civil penalties against Defendant Nuru Witherspoon for the conduct of Defendant Alphonso McClendon. What, if any, is the amount of civil penalties you impose against Defendant Nuru Witherspoon for the conduct of Defendant Alphonso McClendon? \$ 35,000 (not to exceed \$10,000 per violation).

Shirley D. Helt
PRESIDING JUROR

Verdict No. 2 – Tennessee Consumer Protection Act of 1977, Civil Penalties¹

The State claims that the Defendants violated the Tennessee Consumer Protection Act (“TCPA”). The TCPA allows the State to seek civil penalties as a result of a defendant’s use of an unfair or deceptive act or practice.

To impose civil penalties for a violation of this law, the State must prove by a preponderance of the evidence that a defendant’s act or practice is unfair or deceptive;² or that a defendant engaged in certain conduct that the law has determined to be unfair or deceptive.

Certain practices are by law unfair or deceptive. In this case, the State alleges that the Defendants engaged in conduct that the law has determined to be unfair or deceptive, as follows:

- (a) causing likelihood of confusion or of misunderstanding as to the source, sponsorship, approval or certification of goods or services;³
- (b) causing likelihood of confusion or misunderstanding as to affiliation, connection or association with, or certification by, another;⁴

The State has the burden of proving by a preponderance of the evidence that the Defendants engaged in conduct which the law has determined to be unfair or deceptive.

The law also provides a jury with the right to determine whether the conduct of a defendant is deceptive or unfair.

A deceptive act or practice is one that tends to deceive, that causes a consumer to believe what is false, or that misleads or tends to mislead a consumer as to a matter of fact. Deceptive acts or practices by merchants may consist of statements, silence or actions.

¹ T.P.I.--Civil 11.45

² Tenn. Code Ann. § 47-18-104(a), (b)(27).

³ Tenn. Code Ann. § 47-18-104(b)(3).

⁴ Tenn. Code Ann. § 47-18-104(b)(5).

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On the other hand, unfair conduct is even broader than the concept of deceptiveness. It is conduct that causes or is likely to cause substantial injury to consumers which is not reasonably avoidable by consumers themselves and is not outweighed by benefits to consumers or competition.

“Substantial” injury must be more than trivial or speculative and may be found if a relatively small harm is inflicted on a large number of consumers or if a greater harm is inflicted on a relatively small number of consumers. Substantial injury usually involves monetary injury or unwarranted health or safety risks. Conduct by a merchant is not unfair if the consumer could reasonably avoid an injury.

The State claims that Defendant Glenn Smith engaged in conduct that the law has determined to be deceptive and unfair to Marshe Myers (mother of Tony Coburn, Jr.) by, among other things:

- causing confusion over the source of services, which the State alleges occurred by allegedly directing Marshe Myers to an intake form for The Witherspoon Law Group to obtain a loan for funeral services, or
- causing confusion as to an association with another, which the State alleges occurred by the alleged association of the Witherspoon Law Group with Universal Funds, a lender of funds for funeral services.

Further, the State claims that the conduct of Defendant Glenn Smith was deceptive or unfair to Ms. Myers by, among other things:

- alleging Defendant Glen Smith misled Ms. Myers as to the nature of services that Mr. Smith and The Witherspoon Law Group were actually offering to provide; or

- alleging Defendant Glen Smith conducted business with Ms. Myers soon after the death of her son Tony Coburn, Jr. at a funeral home while she was arranging a funeral in a heightened state of grief.

(1) Question 1: Do you find by a preponderance of the evidence that Defendant Glenn Smith committed an unfair or deceptive practice under the TCPA as alleged above?

Yes No

If your answer to Question 1 is "Yes," you may consider imposing civil penalties against Defendant Glenn Smith. What, if any, is the amount of civil penalties you impose against Defendant Glenn Smith? \$ 1000 (not to exceed \$1,000 per violation).

The State claims that Defendant Alphonso McClendon engaged in conduct that the law has determined to be deceptive and unfair to Misti Nash (mother of Zoie Nash) by, among other things:

- causing confusion over the source of services, which the State alleges occurred by Defendant Alphonso McClendon allegedly holding himself out as a lawyer to Misti Nash; or
- causing confusion over a connection with another, which the State alleges occurred by Defendant Alphonso McClendon allegedly representing to Misti Nash that he had a connection to a source of settlement funds (i.e., \$3 Million) which he did not have.

The State further claims that Defendant Alphonso McClendon engaged in conduct that was deceptive and unfair to Misti Nash (mother of Zoie Nash) by, among other things:

- allegedly making a presentation to Misti Nash at a funeral home on the day she made arrangements for the funeral of her deceased child when she was in a heightened state of grief; or

- allegedly misrepresenting to Misti Nash the availability of settlement funds for the wrongful death of her daughter;

(2) Question 2: Do you find by a preponderance of the evidence that Defendant Alphonso McClendon committed an unfair or deceptive practice under the TCPA as alleged above with regard to Misti Nash?

Yes No

If your answer to Question 2 is "Yes," you may consider imposing civil penalties against Defendant Alphonso McClendon. What, if any, is the amount of civil penalties you impose against Defendant Alphonso McClendon? \$ 2000 (not to exceed \$1,000 per violation).

The State claims that Defendant Alphonso McClendon engaged in conduct that the law has determined to be deceptive and unfair to Latesha Jones (mother of Cordajya Jones) by, among other things:

- causing confusion over the source of services, which the State alleges occurred by Defendant Alphonso McClendon allegedly holding himself out as a lawyer to Latesha Jones; or
- causing confusion over a connection with another, which the State alleges occurred by Defendant Alphonso McClendon allegedly representing to Latesha Jones that he had a connection to a source of settlement funds (i.e., \$3 Million) which he did not have.

The State further claims that Defendant Alphonso McClendon engaged in conduct that was deceptive and unfair to Latesha Jones (mother of Cordajya Jones) by, among other things:

- allegedly making a presentation to Latesha Jones at a funeral home on the day she made arrangements for the funeral of her deceased child when she was in a heightened state of grief; or
- allegedly misrepresenting to Latesha Jones the availability of settlement funds for the wrongful death of her daughter;

(3) Question 3: Do you find by a preponderance of the evidence that Defendant Alphonso McClendon committed an unfair or deceptive practice under the TCPA as alleged above with regard to Latesha Jones?

Yes No

If your answer to Question 3 is "Yes," you may consider imposing civil penalties against Defendant Alphonso McClendon. What, if any, is the amount of civil penalties you impose against Defendant Alphonso McClendon? \$ 1000 (not to exceed \$1,000 per violation).

The State claims that Defendant Alphonso McClendon engaged in conduct that the law has determined to be deceptive and unfair to Cornelius Jones (father of Cordajya Jones) by, among other things:

- causing confusion over the source of services, which the State alleges occurred by Defendant Alphonso McClendon allegedly holding himself out as a lawyer to Cornelius Jones; or
- causing confusion over a connection with another, which the State alleges occurred by Defendant Alphonso McClendon allegedly representing to Cornelius Jones that he had a connection to a source of settlement funds (i.e., \$3 Million) which he did not have.

The State further claims that Defendant Alphonso McClendon engaged in conduct that was deceptive and unfair to Cornelius Jones (father of Cordajya Jones) by, among other things:

- allegedly making a presentation to Cornelius Jones at a funeral home on the day he made arrangements for the funeral of his deceased child when he was in a heightened state of grief; or
- allegedly misrepresenting to Cornelius Jones the availability of settlement funds for the wrongful death of his daughter;

(4) Question 4: Do you find by a preponderance of the evidence that Defendant Alphonso McClendon committed an unfair or deceptive practice under the TCPA as alleged above with regard to Cornelius Jones?

Yes ✓ No _____

If your answer to Question 4 is "Yes," you may consider imposing civil penalties against Defendant Alphonso McClendon. What, if any, is the amount of civil penalties you impose against Defendant Alphonso McClendon? \$ 1000 (not to exceed \$1,000 per violation).

The State claims that Defendant Alphonso McClendon engaged in conduct that the law has determined to be deceptive and unfair to Demetrius Wilson (mother of Keonte Wilson) by, among other things:

- causing confusion over the source of services, which the State alleges occurred by Defendant Alphonso McClendon allegedly holding himself out as a lawyer to Demetrius Wilson; or
- causing confusion over a connection with another, which the State alleges occurred by Defendant Alphonso McClendon allegedly representing to Demetrius Wilson

that he had a connection to a source of settlement funds (i.e., \$3 Million) which he did not have.

The State further claims that Defendant Alphonso McClendon engaged in conduct that was deceptive and unfair to Demetrius Wilson (mother of Keonte Wilson) by, among other things:

- allegedly making a presentation to Demetrius Wilson at a funeral home on the day she made arrangements for the funeral of her deceased child when she was in a heightened state of grief; or
- allegedly misrepresenting to Demetrius Wilson the availability of settlement funds for the wrongful death of her daughter;

(5) Question 5: Do you find by a preponderance of the evidence that Defendant Alphonso McClendon committed an unfair or deceptive practice under the TCPA as alleged above with regard to Demetrius Wilson?

Yes No

If your answer to Question 5 is “Yes,” you may consider imposing civil penalties against Defendant Alphonso McClendon. What, if any, is the amount of civil penalties you impose against Defendant Alphonso McClendon? \$ 1000 (not to exceed \$1,000 per violation).

If your answer to either Question #1 regarding Defendant Glenn Smith or Questions #2, 3, 4, or 5 regarding Defendant Alphonso McClendon is “yes,” you may consider imposing civil penalties on Defendant Nuru Witherspoon and The Witherspoon Law Group pursuant to the Court’s instructions on common enterprise.⁵

⁵ T.P.I.--Civil 12.01, 12.02

(6) Question #6: Do you find by a preponderance of the evidence that Defendant Nuru Witherspoon and The Witherspoon Law Group acted in a common enterprise with Defendant Glenn Smith?

Yes No

(7) Question #7: Do you find by a preponderance of the evidence that Defendant Nuru Witherspoon and The Witherspoon Law Group acted in a common enterprise with Defendant Alphonso McClendon?

Yes No

Shirley D. Helt
PRESIDING JUROR