

CERTIFICATE OF JUDGMENT

Case Number
CV 95 2173
Yr Number

IN THE CIRCUIT COURT OF JEFFERSON COUNTY

Plaintiff: CATHY FLEENOR

Judgment Date (original) 5/10/96
Judgment Date (amended) 9/9/96
Judgment \$ 2,300,000.00
Costs 217.00
Other
TOTAL \$ 2,300,217.00

VS

Defendant: TALENT TREE PERSONNEL SERVICES, INC.
C/O THE CORPORATION COMPANY
60 COMMERCE STREET
MONTGOMERY, AL 36104

AND BRENDA HARRIS
3075 HIGHWAY 150
MOORE, AL

Inst # 1996-35318

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Plaintiff's Atty. Richard Jordan and Randy Myers

Defendant's Atty. J. Fred Wood, Jr.

10/23/1996-35318
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SHELBY COUNTY JUDGE OF PROBATE
007 HCB 23.30

JUDGMENT RENDERED IN FAVOR OF	X PLAINTIFF	DEFENDANT
JUDGMENT:	☐ Default ☐ Dismissal ☐ Detinue ☒ Other (See below and attached order)	☐ Consent ☐ Workman's Comp. ☐ Unlawful Detainer ☐ Non Suit ☐ Pro Ami

JUDGMENT CONDITIONS:

☐ With Exemptions	☐ Without Exemptions
☐ With Prejudice	☐ Without Prejudice

5/10/96 Judgment rendered in favor of the plaintiff and against the defendants in the amount of \$3,000,000.00 and all costs. [Original judgment]

Judge Smallwood

9/9/96 Order per separate paper re: Amended order and remittitur.

Judge Smallwood

10/3/96 Pursuant to the court's judgment of 9/9/86, the plaintiff filed a remittitur of \$1,000,000.00 on 9/24/96. Said judgment is for \$2,000,000.00 punitive and \$300,000.00 compensatory, for a total judgment of \$2,300,000.00, which is made final pursuant to Rule 54 (b), A.R.C.P. Costs of the court are taxed to the defendants.

Judge Smallwood

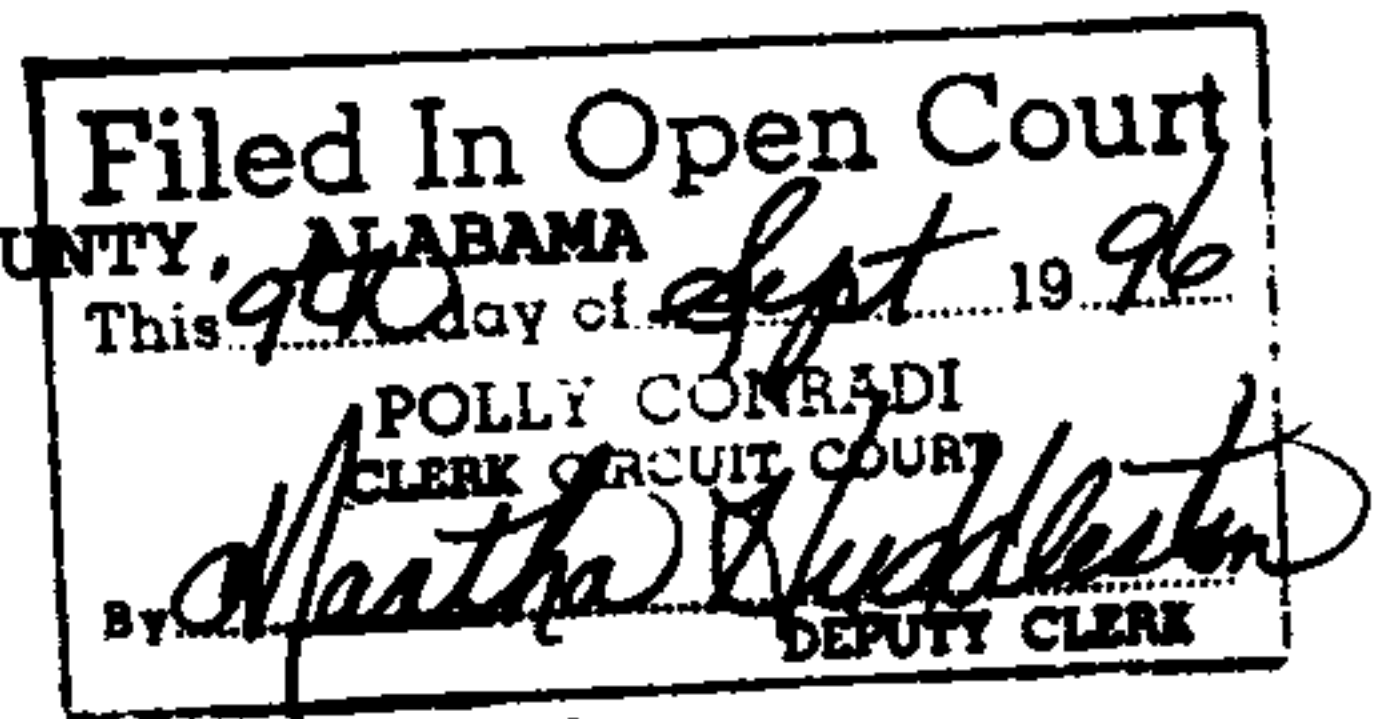
Certified as a True Copy

October 8, 1996

CLERK

Patty Connadi
CLERK

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA



CATHY FLEENOR,
Plaintiff,

vs.

TALENT TREE PERSONNEL SERVICES,
INC., ET AL,

Defendant(s).

CIVIL ACTION NO. CV 95-2173

AMENDED ORDER ON MOTION FOR NEW TRIAL and REMITTITUR

This case was tried before a jury which rendered a verdict in favor of the Plaintiff, Cathy Fleenor, (Fleenor), and against the Defendants in the amounts of \$300,000.00 compensatory, \$3,000,000.00 in punitive damages for fraud, and \$0 damages for breach of contract. The fraud case was against both Defendants while the breach of contract was against Defendant, Talent Tree Personnel Service, Inc. (Talent Tree). This case involved a failure to pay commissions allegedly due Plaintiff for her work for Defendant, Talent Tree. The Defendant, Brenda Harris, was Plaintiff's supervisor and manager of the branch where Plaintiff was employed. The Plaintiff's compensation was based upon a complicated commission above quota arrangement. In the plan, Plaintiff and like employees had a quota to reach on a quarterly basis after which a commission was awarded. It was alleged that other considerations such as profitability to the agency or company was a factor. The jury was presented evidence by very capable attorneys for both sides and had sufficient evidence to arrive at a verdict. The Plaintiff introduced evidence that indicated that

her bonus for a period was reduced for which Talent Tree never informed her and had no adequate explanation even at trial. She also produced evidence that indicated a retroactive reduction in commissions without notice to her. For their part the Defendants produced evidence that Defendant, Brenda Harris, (Harris), interceded on behalf of Fleenor to get her a lower quota in order to increase Fleenor's income and that upon Fleenor's complaint to the home office that they attempted to resolve the complaint even to the extent of hiring an outside accountant. Talent Tree also claimed that they voluntarily in good faith gave Fleenor 'all available documents on the subject.

While the amount is disputed, Talent Tree acknowledges that they owe Fleenor some amount. This Court denied Defendants' motion for a new trial on July 15, 1996, and set a hearing on Hammond/Green Oil for August 23, 1996, as shown by the amended order of August 23, 1996. In such hearing the Court considered all applicable factors including Hammond v. City of Gadsden, 493 So. 2d 1374; Green Oil Company v. Hornsby, 595 So. 2d 218 and Sec. 6-11-23 (b), Code of Alabama. In applying such factors, the Court finds that there was adequate evidence to support the jury's finding of fraudulent conduct by the Defendants. The Plaintiff has testified as to her mental anguish and that was sufficient alone to provide a basis for the jury's verdict. See Foster v. Life Insurance Company of Georgia, 656 So. 2d 333, (Ala. 1994). Fleenor claimed that the Defendants defrauded her out of \$186,000.00 in bonuses and while the Defendants admit that they may owe Fleenor some small amount, they claim at best it could no be more than \$69,000.00 and

is likely, considerably less. The Defendants also deny that they suppressed or "covered up" their alleged fraudulent acts. It is found that the jury had sufficient evidence to support its finding. It was not argued that the verdict would have an overly substantial impact on Talent Tree and there is no indication that Harris will have to pay any portion of the judgment and she has not been discharged or disciplined. There is no evidence that this case impacted on innocent third parties. There are no criminal sanctions or other civil actions pending. The Defendants' conduct lasted a few months, however the Plaintiff was required to go through the litigation process with its time and cost requirements.

In considering the foregoing, the Court concludes and finds that evidence supports that Fleenor was paid less than she was contractually due in some amount and that Talent Tree changed the compensation amount without explanation, notice or justification. The Court further finds that evidence supports the jury's verdict.

A jury's verdict is presumed correct and will not be disturbed unless it is plainly erroneous or manifestly unjust, Crown Life Insurance Company v. Smith, 657 So. 2d 821. The Court may not substitute its opinion as to the adequacy of damages for that of the jury. However, a jury's verdict must be within the bounds of reason, as perceived by the judicial mind, although it may exceed, or be less than, what any particular judge's life experience would have it to be, Big "B", Inc. v. Cottingham, 634 So. 2d 999. As stated in Green Oil, 539 Sso. 2d at 222, "Because the purpose of punitive damages is not to compensate the Plaintiff but to punish

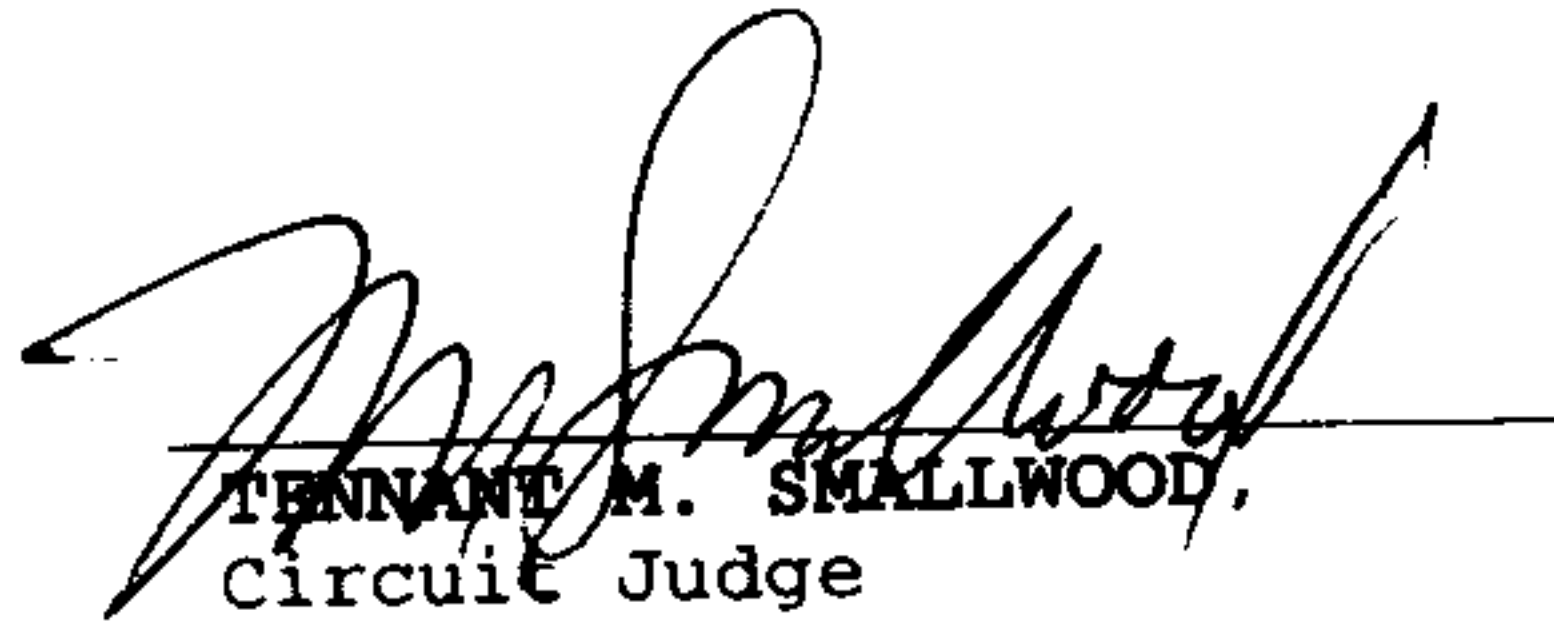
the wrongdoer and deter the wrongdoer and others from committing similar wrongs in the future, the proper amount of punitive damages rest largely within the jury's discretion. However, although punitive damages need bear no particular relationship to actual damages, they nonetheless must not exceed an amount that will accomplish society's goals of punishment and deterrence. A punitive verdict should be large enough to hurt or to sting in order to deter, it should not destroy.

CONCLUSION

Upon consideration of the foregoing, the evidence and arguments of counsel, it is the Findings and Judgment of this Court that the jury verdict of \$300,000.00 compensatory be upheld but that the verdict of \$3,000,000.00 is more than necessary to accomplish society's goal of punishing the Defendants and deterring others from such conduct. Considering the size of the Defendant Corporation and that this judgment would sting but certainly not destroy, the Court hereby amends its order of September 6, 1996. Therefore, the Court Orders a remittitur from \$3,000,000.00 to \$2,000,000.00 punitive making a total judgment of \$2,300,000.00.

Accordingly, the Defendants' motion for Judgment Notwithstanding the Verdict or For a New Trial is denied on the condition that the Plaintiff files a remittitur for punitive damages in the amount of \$1,000,000.00 within twenty-one (21) days from the date herein. This will leave a total judgment in the amount of \$2,300,000.00.

DONE AND ORDERED on this the 9th day of September, 1996.


TENNANT M. SMALLWOOD,
Circuit Judge

cc: Richard M. Jordan, Esquire
Randy Myers, Esquire
JORDAN & MYERS, P.C.
302 Alabama Street
Montgomery, Alabama 36104

J. Fred Wood, Jr., Esquire
John W. Dodson, Esquire
DOMINICK, FLETCHER, YEILDING, WOOD & LLOYD, P.A.
Post Office Box 1387
Birmingham, Alabama 35201-1387

Brenda Harris

ATTACHED IS A COPY OF THE DEED FOR THE REAL PROPERTY LOCATED AT
1066 COUNTRY CLUB CIRCLE, BIRMINGHAM, AL 35244. THE LEGAL
DESCRIPTION IS:

LOT 3415, according to the Map and Survey of Riverchase
Country Club, 34th Addition as recorded in map book 15, Page
32 A, B, and C, in the Probate Office of Shelby county,
Alabama.

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