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This 20th day of Aug 1996

BY Martha Huddleston
DEPUTY CLERK

he Plaintiff's Motion

This matter came before the Court on the Plaintiff's Motion for a Default Judgement. After having reviewed the Court file, the Plaintiff's Complaint, and the evidence provided at the hearing the Court finds as follows:

1. Defendants, Howard Neil Bailey, Howard Neil Bailey, II, and the Neil Bailey Insurance Agency were served with the Summons and Complaint in this action on September 22, 1995, September 25, 1995, and September 22, 1995 respectively. Service on these Defendants was accomplished by certified mail.

2. Each of these Defendants has failed to plead or otherwise defend against the allegations of Plaintiff's Complaint as required under Alabama Rules of Civil Procedure. Since over ten (10) months have passed since these Defendants were served, the entry of Default Judgement is entirely proper.

3. The Court finds that the allegations against these Defendants contained in the Plaintiff's Complaint are established.

4. The evidence reveals that the Plaintiffs wrote checks which were received by one or more of the Defendants in the total amount of \$562.50 over the course of approximately four (4) months from March 25, 1993 through July 15, 1993. On each occasion the checks were written the Plaintiffs were assured that they had secured medical and hospital insurance, when in fact, no such insurance was ever secured on their behalf by the Defendants.

5. The evidence further reveals that during this time period the Plaintiffs were provided with a "specimen copy" of an insurance policy which was represented as being their actual policy. They were also provided with a policy number on business cards of the Neil Bailey Insurance Agency, Inc., which was represented to them as being their actual policy number. The evidence reveals that contrary to the Defendant's representations no such policy ever existed.

6. In August of 1993, the Plaintiff, Willie Roper, was injured and incurred emergency medical treatment expenses which

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were not paid or applied to any insurance deductible amounts because the Plaintiffs had no insurance coverage available to them, despite the repeated assurances they had received, the checks they had written, and the specimen insurance policy and actual "policy number" they had been provided. At the time they became aware of the fraudulent acts of the Defendants they secured insurance coverage from other sources.

7. The Court also finds that during the same time period another family (the Lowery family) was similarly defrauded by these Defendants when they paid premiums for hospital and medical insurance coverage that was never provided. Over \$30,000.00 in medical expenses were actually incurred by the Lowery family because no insurance coverage was placed for them in spite of their payment of premiums and receipt of similar assurances by these Defendants.

8. The Court finds that the Plaintiffs suffered substantial and severe mental anguish when they learned of the fraud practiced upon them and became aware that they had been exposed to financial ruin for several months due to the fact that they had not been covered for any type of medical expenses they may have incurred during that time. The Court further finds that the Plaintiffs incurred other actual losses.

9. The Court finds that the actions of these Defendants substantially damaged the Plaintiffs and was part of a pattern and practice of fraudulent conduct which should be punished by the imposition of punitive damages.

WHEREFORE the Court enters its Default Judgement against these Defendants, separately and severally, for the sum of \$6,000.00 in actual damages and \$24,000.00 in punitive or exemplary damages in addition to the costs of this action for which execution may issue.

Done this 20th day of August, 1996.


JUDGE TENNANT L. SMALLWOOD
CIRCUIT COURT JUDGE

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State of Alabama - Jefferson County
I certify this instrument filed on:
1996 DEC 30 P.M. 15:37
Recorded and \$
and \$ 9.50
Total \$ 9.50
GEORGE R. REYNOLDS, Judge of Probate



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