

**IN THE CIRCUIT COURT OF FAULKNER COUNTY, ARKANSAS
CIVIL DIVISION 1**

**STATE OF ARKANSAS, *ex rel.*
LESLIE RUTLEDGE, ATTORNEY GENERAL**

PLAINTIFF

v. CASE NO. 23CV-21-501

**501 PAIN & REHAB, LLC;
501 PAIN AND REHAB FAMILY CLINIC
OF RUSSELLVILLE LLC;
JOHN D'ONOFRIO; and
DONNY McCUIEN**

DEFENDANTS

ORDER GRANTING THE STATE'S MOTION FOR RELIEF

Currently before the Court is the State's Motion for Relief against Defendants 501 Pain and Rehab Family Clinic of Russellville LLC, 501 Pain & Rehab, LLC, John D'Onofrio, and Donny McCuien, (collectively, "Defendants"). Based upon the facts, evidence, and other relevant matters before this Court, the Court FINDS:

1. On February 10, 2022, the Court entered an order striking Separate Defendant D'Onofrio's Answer and entered a default judgment against him regarding his liability, and an order striking Separate Defendant McCuien's Answer and Counterclaim and entered a default judgment against him regarding his liability.

2. On March 2, 2022, the Court entered a default judgment regarding liability against Separate Defendants 501 Pain and Rehab Family Clinic of Russellville LLC and 501 Pain & Rehab, LLC.

3. In the aforementioned default judgments, the Court found that the factual allegations set forth in the State's Complaint were admitted, and Defendants' individual and collective practices, as alleged in the Complaint, constituted violations of the Arkansas Deceptive Trade Practices Act ("ADTPA") and the Personal Information Protection Act ("PIPA"), as follows:

- a. Defendants violated Ark. Code Ann. § 4-110-104(a) by failing to take reasonable steps as required by this statute to destroy or arrange for the destruction of approximately 957 instances of unencrypted and unredacted personal information in Defendants' custody and control that were contained within the patient files found discarded in a public park.
- b. Defendants violated Ark. Code Ann. § 4-110-104(b) by failing to protect and secure from unauthorized access, destruction, use, modification, or disclosure of approximately 957 instances of unencrypted and unredacted personal information of patients acquired and owned by Defendants and contained within the patient files found discarded in a public park.
- c. Defendants violated Ark. Code Ann. § 4-88-103(a)(10) by engaging in

unconscionable acts in the course of their businesses by failing to reasonably and adequately secure and protect, and by failing to properly dispose of, approximately 957 instances of unencrypted and unredacted personal information of patients belonging to Defendants and contained within the patient files found discarded in a public park.

4. In the aforementioned default judgments, the Court allowed the State to plead further for relief against Defendants, including restoration of ascertainable losses to consumers, civil penalties, injunctive relief, and costs and fees incurred by the Office of the Attorney General in the prosecution of this action, and for all other just and proper relief to which the State may be entitled.

5. The relief requested in the State's Motion for Relief is reasonable and serves the interests of justice in this matter, and therefore, the Motion is GRANTED.

IT IS THEREFORE CONSIDERED, ORDERED, AND ADJUDGED:

6. Pursuant to Ark. Code Ann. § 4-110-108, § 4-88-104, and § 4-88-113(a)(1), Defendants are permanently enjoined and prohibited from engaging in any violations of the PIPA and the ADTPA, particularly the unlawful acts and practices described herein.

7. Pursuant to Ark. Code Ann. § 4-110-108 and § 4-88-113(c), Defendants are assessed civil penalties in the total amount of \$287,100, which is calculated as follows:

- a. Civil penalties of \$100 for each of the 957 violations of Ark. Code Ann. § 4-110-104(a), which totals \$95,700.

b. Civil penalties of \$100 for each of the 957 violations of Ark. Code Ann. § 4-110-104(b), which totals \$95,700.

c. Civil penalties of \$100 for each of the 957 violations of Ark. Code Ann. § 4-88-113(b), which totals \$95,700.

8. Pursuant to Ark. Code Ann. § 4-110-108 and § 4-88-113(b), all of Defendants' franchises, corporate charters, licenses, permits, and any other authorization to do business in this state are hereby forfeited and suspended, including Defendant D'Onofrio's chiropractic physician license, until all payments ordered herein have been paid in full, including post-judgment interest and any collection costs.

9. Pursuant to Ark. Code Ann. § 4-110-108 and § 4-88-113(e), the State is awarded its costs incurred in this litigation in the amount of \$34,295.

10. The Court finds that Defendants D'Onofrio and McCuien are each a "controlling person" or "facilitating person" within the meaning of Ark. Code Ann. § 4-88-113(d)(1) and that pursuant to Ark. Code Ann. § 4-110-108 and § 4-88-113(d), each is personally liable for not only his personal acts which violated Arkansas law, but also jointly and severally liable for the individual and collective acts of the other Defendant and the relief ordered herein.

11. In accordance with Ark. Code Ann. § 16-66-221, each Defendant shall file a schedule of assets, verified by affidavit, within forty-five (45) days of the entry of judgment detailing all property, both real and personal, including monies, bank

accounts, rights, credits, and choses in action held, and specifying the particular property that Defendant claims is exempt.

12. The State shall take appropriate and reasonable measures to ensure that the documents contained in the files at issue in this matter are destroyed in a manner consistent with Arkansas law.

IT IS SO ORDERED.

HON. SUSAN K. WEAVER
CIRCUIT JUDGE

DATE

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Arkansas Judiciary

Case Title: STATE OF AR ATTORNEY GENERAL V 501 PAIN &
REHAB
Case Number: 23CV-21-501
Type: ORDER MOTION GRANTED

So Ordered

A handwritten signature in blue ink, appearing to be "S. K. Weaver".

JUDGE SUSAN K. WEAVER