

CAUSE NO. 2023-18773

JEFFREY HERZIK, LORI HERZIK, and JORDAN EAVES Plaintiff	§ § § § § § § § § §	IN THE DISTRICT COURT OF HARRIS COUNTY, TEXAS 157th JUDICIAL DISTRICT
V.		
DAVID PETTUS and THE PETTUS LAW FIRM, P.C. Defendants		

FINAL DEFAULT JUDGMENT

On this day the Court considered the Amended Motion for Final Default Judgment filed by Plaintiffs Jeffrey Herzik, Lori Herzik and Jordan Eaves (“Plaintiffs”) against Defendants David Pettus and The Pettus Law Firm, P.C. (“Defendants”). After considering the Motion, the response, if any, and arguments of counsel, the Court believes the Motion has merit and should be in all things GRANTED. The Court makes the following findings in support.

On March 23, 2023, Plaintiffs filed this lawsuit against David Pettus and The Pettus Law Firm, P.C. for negligence, breach of fiduciary duty and conversion, alleging Defendants settled their underlying personal injury case without Plaintiffs’ consent and then misappropriated proceeds and caused the loss of the underlying claims, valued at \$1,225,000. David Pettus authored a demand wherein he valued the Plaintiffs’ underlying claims and acknowledged that Plaintiffs sustained damages in the following amounts: (1) \$575,000 as to Jeffrey Herzik, (2) \$375,000 as to Lori Herzik, and (3) \$275,000 as to Jordan Eaves.

Defendants last known address is 2600 South Shore Boulevard, Suite 300, League City Texas, 77573 (“the South Shore address”), which is the address Defendants have certified to the State Bar of Texas.

David Pettus is not a member of the United States military.

Defendants avoided service of process requiring Plaintiffs to file a motion for substitute service, which was granted on May 18, 2023 (“the Order”). The Order provided that service of process may be made by firmly affixing copy of the Citations, Petition and Order to the South Shore address, or emailing a copy of the Citations, Petition and Order to thepettuslawfirm@gmail.com and dpettus@comcast.net and would be perfected when the Citations, Petition and Order were mailed to that same address by both certified mail, return receipt requested and regular mail, and return of service is made either 30 days after mailing or when the process server received back the green card from the post office, whichever date is earlier. The process server complied with the Order by delivering the Citations, Petition and Order to the South Shore address on June 14, 2023 and affixing them to the door and mailing those documents to the South Shore address via regular mail and certified mail return receipt requested on June 15, 2023 and emailing those documents to the email addresses provided in the Order. The Court finds that service of process on Defendants David Pettus and The Pettus Law Firm, P.C. has been perfected.

Service was perfected on August 8, 2023 so the deadline for Defendants to answer was Monday, September 4, 2023. To this date, Defendants have failed to file

an answer or any other pleading constituting an answer or entered an appearance. It is therefore,

ORDERED that Plaintiffs' Amended Motion for Final Default Judgment against Defendants David Pettus and The Pettus Law Firm, P.C. is in all things GRANTED. It is therefore,

ORDERED that Defendants David Pettus and The Pettus Law Firm, P.C. are liable for Plaintiffs' claim of negligence. It is further,

ORDERED that Defendants David Pettus and The Pettus Law Firm, P.C. are liable for Plaintiffs' claim of breach of fiduciary duty. The Court finds that Defendants David Pettus and The Pettus Law Firm, P.C. engaged in intentional conduct, including malice. The Court considered evidence which indicated that David Pettus engaged in this conduct with other clients of his. The Court finds this conduct to be egregious bad faith conduct engaged in by a member of the State Bar of Texas. It is further,

ORDERED that Defendants David Pettus and The Pettus Law Firm, P.C. are liable for Plaintiffs' claim of conversion. It is further,

ORDERED that the Court finds that because Defendants' liability is conclusively established, Defendants have admitted that their conduct caused the event upon which the Plaintiffs' suit is based, here the loss of their underlying personal injury claims. It is therefore,

ORDERED that Plaintiffs be awarded actual damages in the amounts that David Pettus valued these claims as follows: (1) \$575,000 to Jeffrey Herzik, (2) \$375,000 to Lori Herzik, and (3) \$275,000 to for Jordan Eaves. It is further,

ORDERED that pursuant to Chapter 304 of the Texas Finance Code, Plaintiffs are awarded pre-judgment interest on actual damages at the rate of 8.5 percent from the date suit was filed until February 15, 2024 in the following amounts: (1) \$43,920 to Jeffrey Herzik, (2) \$28,643.83 to Lori Herzik, and (3) \$20,685.27 to Jordan Eaves. It is further,

ORDERED that due to Defendants' intentional breach of fiduciary duty and malice, Plaintiffs be awarded exemplary damages in the following amounts: (1) \$1,150,000 to Jeffrey Herzik, (2) \$750,000 to Lori Herzik, and (3) \$550,000 for Jordan Eaves. It is therefore,

ORDERED that Plaintiffs recover from Defendants David Pettus and The Pettus Law Firm, P.C., jointly and severally, the following total judgment amounts: (1) \$1,768,920 to Jeffrey Herzik, (2) \$1,153,643.83 to Lori Herzik, and (3) \$845,685.27 to Jordan Eaves. It is further,

ORDERED that post-judgment interest shall be paid at a rate of 8.5 percent on these judgment amounts.

This is a final judgment.

Signed: _____

Signed:
2/27/2024



Judge Tanya Garrison