

IN THE CIRCUIT COURT FOR HAMILTON COUNTY, TENNESSEE

CHARLESETTA WOODARD  
THOMPSON,

Plaintiff,

v.

CHATTANOOGA - HAMILTON  
COUNTY HOSPITAL AUTHORITY,  
d/b/a ERLANGER HEALTH SYSTEM,

Defendant.

DOCKET NO. 130979

DIVISION \_\_\_\_\_

JURY DEMANDED

FILED IN OFFICE  
2013 JUL 24 PM 3:01  
PAULA I. THOMPSON, CLERK  
BY EMT DC

**COMPLAINT**

Charlesetta Woodard-Thompson ("Plaintiff") states her claims and causes of action against Chattanooga-Hamilton County Hospital Authority d/b/a Erlanger Health System ("Defendant Erlanger") as follows:

**I. The Parties**

1. Plaintiff is a resident of Hamilton County, Tennessee. Plaintiff is a female African American over the age of forty (40) years.
2. Defendant Erlanger is a governmental hospital authority created by virtue of the Private Acts of 1976, Chapter 297 as amended by the Private Acts of 1977, Chapter 125.
3. Defendant Erlanger is also an "employer"
  - a. within the meaning of an employer under the Tennessee Disability Discrimination Act, Tenn. Code Ann. § 8-50-103; and
  - b. within the definition of an employer under the Tennessee Retaliatory Discharge Act, Tenn. Code Ann. § 50-1-304(a)(2).



## **II. Jurisdiction**

4. The jurisdiction of this Court is invoked pursuant to:

a. Tenn. Code Ann. § 8-50-103 for protection against discrimination in the terms and conditions of employment based upon a disability under the Tennessee Disability Discrimination Act;

b. Tenn. Code Ann. § 50-1-304(b) for protection against employment termination for refusing to participate in, or for refusing to remain silent about, illegal activities as provided by the Tennessee Retaliatory Discharge Act;

c. The common law of the State of Tennessee, which provides civil protection against the unreasonable intrusion into the private affairs of individual citizens; and

d. The common law of the State of Tennessee, which provides civil protection against a conspiracy being committed against an individual citizen.

## **III. Venue**

5. Venue is properly laid in Hamilton County, Tennessee since the acts giving rise to Plaintiff's causes of action occurred in Hamilton County, Tennessee, and Defendant Erlanger is an employer in Hamilton County, Tennessee.

## **IV. Nature of this Proceeding**

6. This is a suit for actual damages, back pay, front pay, and employment benefits due Plaintiff; for compensatory damages for retaliatory discharge; for damages for the unreasonable invasion of Plaintiff's private affairs and conspiracies committed against her; for incorrect pay for the interim position; for lost pay and associated benefits for public humiliation and lasting impact of character assassination; for intentional interference with a contractual relationship; for pre-



judgment interest and reasonable attorney's fees and costs; for punitive damages; and for such additional relief.

#### **V. Factual Bases of Plaintiff's Claims**

7. Plaintiff earned a Bachelor of Arts in Economics/Industrial Organization from Spelman College in Atlanta, Georgia and a Master of Arts in Economics/Industrial and Labor Relations from Cornell University in Ithaca, New York. Plaintiff currently serves on the Tennessee Civil Service Council, having been appointed to same by former Tennessee Governor Phil Bredesen. Additionally, Plaintiff serves as a State Appeals Board Commissioner, having been appointed by current Tennessee Governor Bill Haslam. She currently serves as board chairman of the Chattanooga Urban League, vice chairman at large of the Chattanooga Chamber of Commerce and member of the Chattanooga Rotary Club. Plaintiff has also served on the boards of Junior Achievement, the Chattanooga Community Foundation, and the National Multiple Sclerosis Society, Southeast Tennessee/North Georgia Chapter in addition to founding the National Coalition of 100 Black Women, Chattanooga Chapter. In light of her extensive service, Plaintiff was named a Chattanooga Woman of Distinction in 2008.

8. Plaintiff began her career with Defendant Erlanger as a department director in 1992 and rose to the position of Senior Vice President, Human Resources in 1999. By June 2002, she had ascended to the post of Chief of Human Resources. At the request of Defendant Erlanger's Board of Trustees, then-CEO Dennis Pettigrew resigned in March 2003 with a severance package. Being the team player that she is, Plaintiff decided to put forward the best interests of Defendant Erlanger and the citizens of Chattanooga by accepting the trustees' appointment as interim Erlanger CEO.

9. Plaintiff served as Defendant Erlanger's interim CEO from February 2003 through March



2004. During her 18-month tenure, Erlanger generated a \$30,500,000 profit. Nevertheless, Defendant Erlanger's trustees chose to hire Jim Brexler as permanent Erlanger CEO in 2004. At that time, Plaintiff became Defendant Erlanger's Executive Vice President and Chief Operating Officer. In earning this position, Plaintiff became Defendant Erlanger's first non-Caucasian female Chief Operating Officer.

10. After Defendant Erlanger alienated doctors and suffered more than Twenty Million Five Hundred Thousand Dollars (\$20,500,000) of losses in five (5) months under his leadership, CEO Brexler was forced out of his position in December 2011. Once again placing the interests of Defendant Erlanger and the City of Chattanooga first, Plaintiff agreed to fill the position of interim CEO for a second time as outgoing CEO Brexler departed with hundreds of thousands of dollars in severance pay. Plaintiff's second tenure as CEO was also a success: under her leadership, Defendant Erlanger's deficit was reduced by \$11 million.

11. During her second term as interim CEO, Plaintiff experienced an array of strange and alarming happenings. Plaintiff was not alone in becoming fearful for her safety: other Erlanger officials expressed like concern. Plaintiff reported these strange happenings through the normal channels of reporting at Erlanger. One startling event occurred when Erlanger officials advised Plaintiff to go to a shooting range and become proficient in shooting a gun. She followed this advice. Plaintiff was also advised to have a security officer escort her to and from her vehicle upon her arrival and departure from Erlanger Hospital. Further, her vehicle was placed in an undisclosed location during the day.

12. At some point, Plaintiff began to believe, if not know, that someone had invaded her personal e-mails; information had begun to be dissipated that could only have been known by



someone accessing her personal information. To gain that access, one would need to know Plaintiff's personally-assigned, private Erlanger passcode. Furthermore, certain documents began to disappear from Plaintiff's computer drive, which could only result from somebody actively meddling with her computer. Plaintiff reported this breach of privacy through the normal channels of reporting at Erlanger.

13. In addition, based on information and belief, certain Erlanger Board members and University of Tennessee College of Medicine ("UTCUM") employees conspired to have Plaintiff removed from her position as Erlanger CEO for multiple reasons, including their desire to obtain control of Erlanger Health System's dollars by UTCUM Board members. Certain Erlanger Board members communicated and published unfounded and false concerns about Plaintiff and said defamatory statements injured the Plaintiff's character and reputation.

14. At the request of certain Erlanger Board members, in-house counsel for Erlanger surreptitiously gained access to certain executive officers' e-mail accounts and electronic data, including those of Plaintiff. Erlanger's in house counsel admitted to both Plaintiff and Erlanger's Chief Administrative Officer that he acted pursuant to the orders of certain members of Defendant Erlanger's Board of Trustees.

15. Erlanger's in house counsel gained access to private and personal files on Plaintiff's computer and removed or deleted some of these files. Said actions were part of a conspiracy by Erlanger in-house counsel and certain Erlanger Board members to invade Plaintiff's privacy.

16. Erlanger's in house counsel's actions were discovered and the Board made a decision to terminate their in-house counsel and instructed Plaintiff to terminate him.

17. In April of 2012, Defendant Erlanger's Board of Trustees passed a resolution to establish



a CEO Search Committee.

18. Defendant Erlanger's CEO Search Committee was charged with identifying candidates that were able to deal positively and creatively with issues that health systems face in the current world. Some of the issues identified were healthcare reform, patient satisfaction, improving community health through preventive care, improving financial performance and looking at ways to deliver medical care most efficiently and effectively to each patient.

19. On November 21, 2012, the Erlanger Search Committee, without providing any further explanation, informed Plaintiff via telephone that she had been eliminated from consideration for the position of permanent CEO.

20. In December of 2012, a large group of Erlanger physicians and members of the Chattanooga black community attended Defendant Erlanger's board meeting to speak in support of Plaintiff after they learned that she had been cut from the CEO short list.

21. In December 2012, three CEO finalists were named despite complaints by some trustees and doctors that the replacement process was rushed. According to the board minutes, one trustee stated that some board members had had mere minutes to review the candidates before being asked to affirm the process. Many were dismayed that Plaintiff did not number among the finalists. At the meeting, a Board of Trustees member acknowledged that most of the board members had not even met the candidates.

22. Support for Plaintiff was effusive following her exclusion from the CEO short list. The executive director of the Urban League, called Plaintiff "the consummate leader who has brought Erlanger back from its fiscal cliff." The executive director of the Urban League added that, in light of Plaintiff's contributions to Erlanger's financial turnaround, "now it seems odd that she is not



'qualified to be a finalist.'"

23. Repeatedly, when outsiders had failed the hospital, Plaintiff came to the rescue. She built substantial momentum through her commitment to Defendant Erlanger's success. Coworkers described Plaintiff as one who fixes problems rather than covering them up. An outstanding and very well respected Erlanger physician remarked that it was "amazing what this woman had done." He said of the omission of Plaintiff's name from the CEO short list, "This is absurd[. W]ith what she has done in one year; why would you want to back off that?"

24. In February of 2013, Defendant Erlanger's Board of Trustees announced its decision to hire a Caucasian male candidate, Kevin Spiegel, as Erlanger's new CEO at a salary of \$680,000 per year plus a \$50,000 sign-on bonus, under a three-year contract to begin April 1, 2013 with an automatic one-year renewal.

25. Since Spiegel's hiring, certain Erlanger Board members have openly bragged about the undermining maneuvers they executed to thwart Plaintiff's career advancement. These comments prompted the Chairman of Erlanger's Board of Trustees to apologize to employees who overheard the comments. Plaintiff has been routinely humiliated by certain members of Erlanger.

26. It was reported to Plaintiff by certain Erlanger executives and staff members that Defendant Erlanger's former Chief of Staff commented that "medicine is a white man's world." Similar statements have been echoed by University of Tennessee College of Medicine officers. Said statements were told to Plaintiff and she reported statements through the normal channels of reporting at Erlanger.

27. Plaintiff experienced a medical condition that needed attention and surgery. Plaintiff told Erlanger that further surgery would be required and Plaintiff's primary care provider advised



medical leave in advance of surgery. Plaintiff was assured by Erlanger officials that they would put her health first, much as Plaintiff had always put the good of Erlanger before her own needs.

28. In April, 2013, Plaintiff and hospital officials agreed that her accumulated leave would be extended until after she had the planned surgery performed and recuperated. Hospital officials assured her that despite the fact that she was not selected for the CEO position, there would be a place for her at Erlanger, the entity that she had served so diligently for so many years. Plaintiff relied upon said representations as she underwent physical therapy and prepared for the surgery for her medical condition that was planned for later this summer. After recuperation, Plaintiff planned to return to Erlanger upon medical clearance.

29. In a letter dated on or about June 26, 2013, the Chief Administrative Officer of Erlanger suddenly and without warning, sent a letter informing Plaintiff that her official termination date was June 23, 2013, which means that Erlanger did a "retroactive" termination date, as Plaintiff was terminated prior to being informed of said termination.

30. In Erlanger's unilateral and abrupt termination letter, Erlanger stated that "your former position with Erlanger had been eliminated in last year's restructure." Based upon information and belief, said Erlanger statement was false because as soon as Erlanger sent the Plaintiff the "retroactive termination letter", they begin posting Plaintiff's prior position that she held before becoming interim CEO.

31. At all times pertinent, Plaintiff went above and beyond her duties and focused Defendant Erlanger on its mission. Plaintiff worked diligently and with dignity to explore how Defendant Erlanger could leverage its resources more efficiently for the benefit of patients and the community. Defendant's response to Plaintiff's loyal work was an abrupt termination.



## **VI. Plaintiff's Claims**

32. The allegations of fact contained in the preceding paragraphs of this Complaint are incorporated by reference into each of the succeeding paragraphs of this complaint which state the causes of action asserted by Plaintiff in this case.

### **Count One: Violation of the Tennessee Disability Discrimination Act**

33. Defendant Erlanger's actions as described above in discharging Plaintiff were violations of the Tennessee Disability Discrimination Act, Tenn. Code Ann. § 8-50-103, which prohibits discrimination in the terms and conditions of employment based upon a disability.

34. Plaintiff's medical condition constituted a physical impairment that substantially limited a major life activity for a period of time, or Plaintiff was regarded by Defendant Erlanger as suffering from such an impairment.

35. Plaintiff was qualified for many positions at Erlanger, however, Defendant Erlanger denied Plaintiff the opportunity to continue/return to work.

### **Count Two: Violation of the Tennessee Retaliatory Discharge Act**

36. The actions by Defendant Erlanger as described above in discharging Plaintiff were violations of the Tennessee Retaliatory Discharge Act, Tenn. Code Ann. § 50-1-304(b), which prohibits the termination from employment for refusing to participate in, or for refusing to remain silent about, illegal activities. Plaintiff reported these illegal activities to the appropriate Erlanger chain of command.

### **Count Three: Invasion of Privacy and Conspiracy**

37. The actions of Defendant Erlanger as described above were violations of the common law of the state of Tennessee, which protects against unreasonable intrusion into an individual



citizen's private affairs, as well as against conspiracy.

38. Defendant Erlanger, through its agents, in a manner highly offensive to a reasonable person, intentionally intruded upon the solitude and seclusion of Plaintiff's private affairs and concerns. The invasion and conspiracy was an intentional and objectively offensive interference with Plaintiff's interest in solitude and seclusion.

39. Defendant Erlanger is liable to Plaintiff for the invasion of her privacy and the conspiracy conducted against her under the common law of the state of Tennessee.

### **VII. Damages**

40. As a result of the wrongful actions of Defendant Erlanger, Plaintiff has suffered both financially and emotionally. In particular, Plaintiff has lost and will continue to lose salary, advancement opportunities and various employee benefits which she would have earned had she been allowed to continue in her employment with Defendant Erlanger.

41. In addition to the actual and financial loss Plaintiff has sustained, she has suffered mental anguish including emotional distress resulting from the embarrassment and humiliation that she has experienced due to the actions of representatives of Defendant Erlanger.

42. As a result of the wrongful actions of Defendant Erlanger, Plaintiff has suffered both financially and emotionally. In particular, Plaintiff has lost and will continue to lose salary, advancement opportunities and various employee benefits which she would have earned had she been allowed to continue in her employment with Defendant Erlanger.

### **VIII. Demands for Judgment**

WHEREFORE, Plaintiff makes the following demands:

- a. That the Court issue and serve process on Defendant Erlanger and require Defendant



Erlanger to answer the allegations of this Complaint within the time prescribed by law;

b. That upon the hearing of this cause Plaintiff be awarded a compensatory monetary judgment in an amount not to exceed Twenty Five Million Dollars (\$25,000,000) for damages, for lost wages and the value of all employment benefits which she has lost from the date of Defendant Erlanger's discriminatory action; for compensatory damages, including damages for humiliation and embarrassment, pain and suffering and emotional distress, as are allowed pursuant to the law of the State of Tennessee;

c. That Plaintiff be awarded attorney fees and such other and further relief as the Court deems proper;

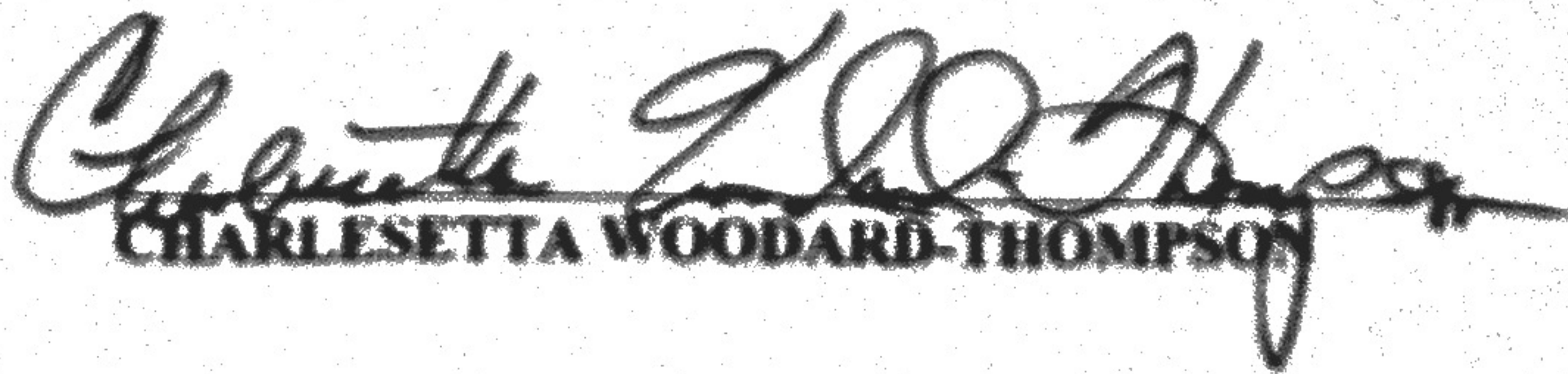
d. That Plaintiff be awarded both special and general damages, including, but not limited to, damages for emotional distress, reasonable attorneys' fees and costs, and punitive damages, as are allowed by the State of Tennessee;

e. That Plaintiff be awarded punitive damages to the extent permitted by law and in an amount to inhibit such adverse employment actions against others in the future; and

f. That a jury of twelve (12) persons be empaneled to try all claims and issues triable by a jury.

**SIGNATURES ON NEXT PAGE**



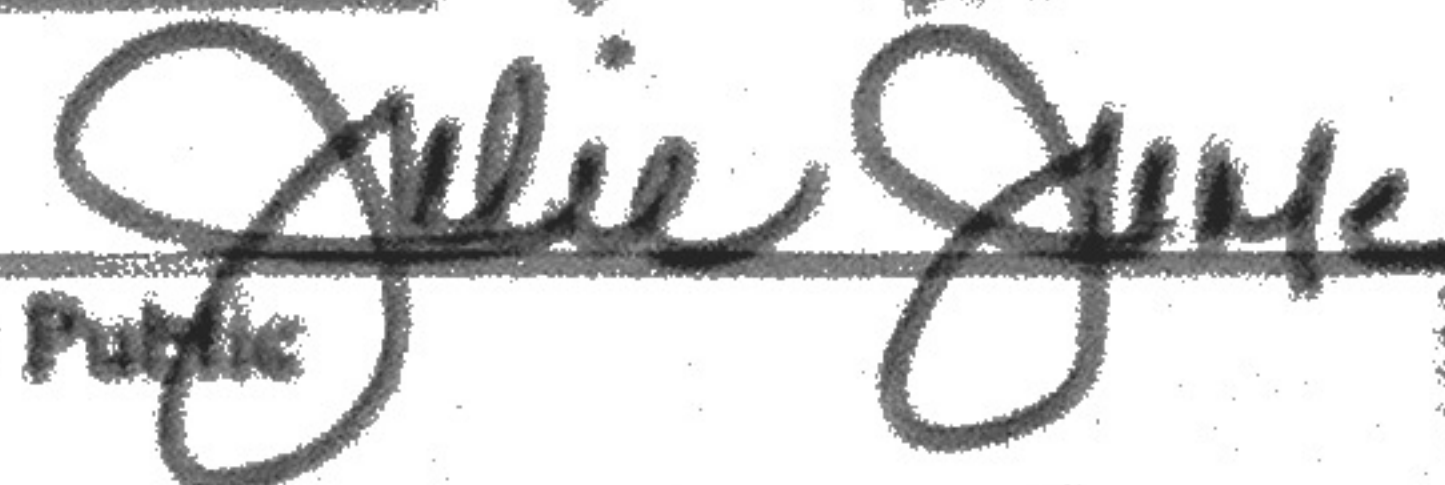
  
CHARLESETTA WOODARD-THOMPSON

STATE OF TENNESSEE

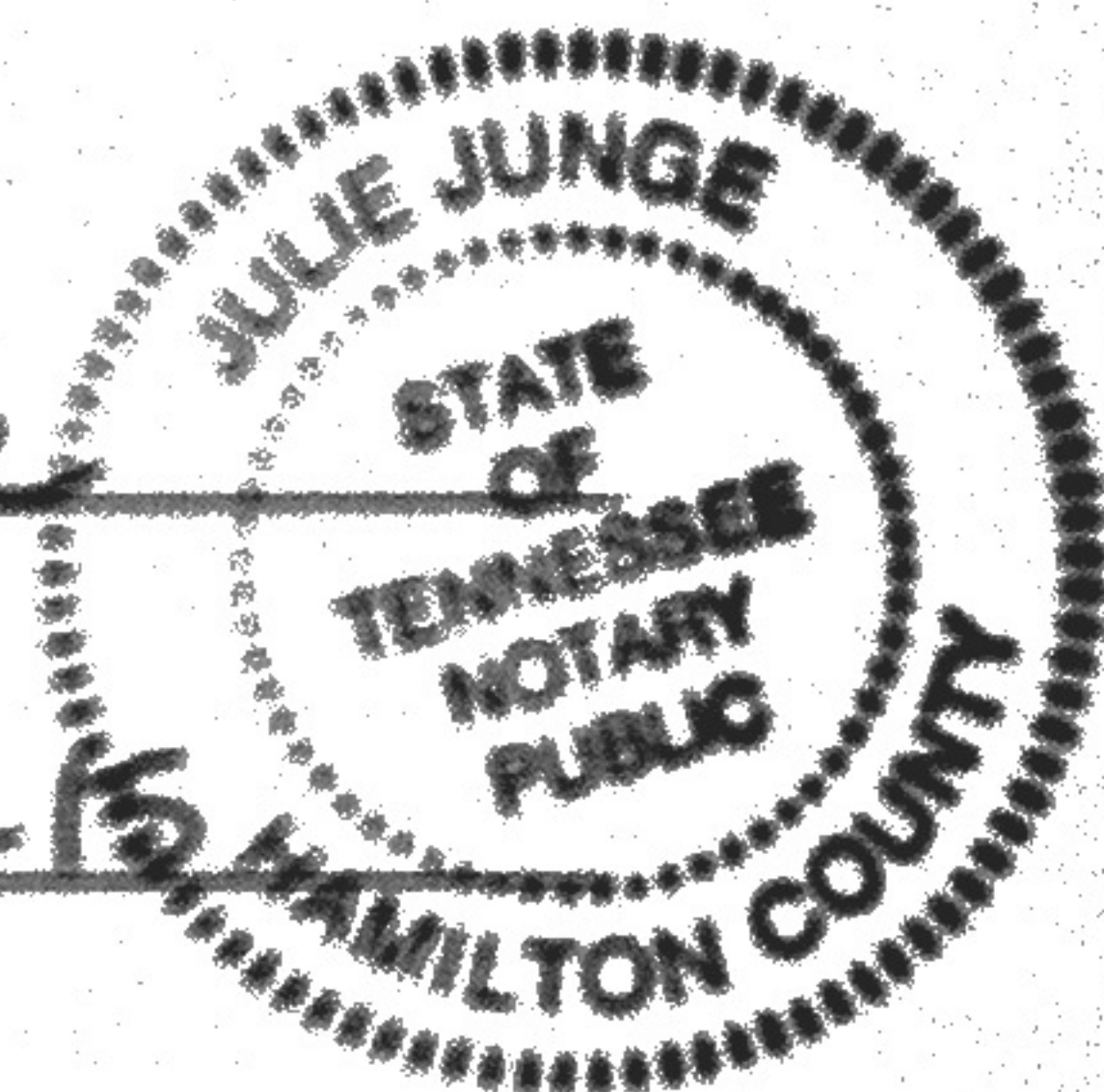
COUNTY OF HAMILTON

Personally appeared before me, a Notary Public, CHARLESETTA WOODARD-THOMPSON, with whom I am acquainted (or proved to me on the basis of satisfactory evidence), and who acknowledged that she executed the within instrument for the purpose therein contained.

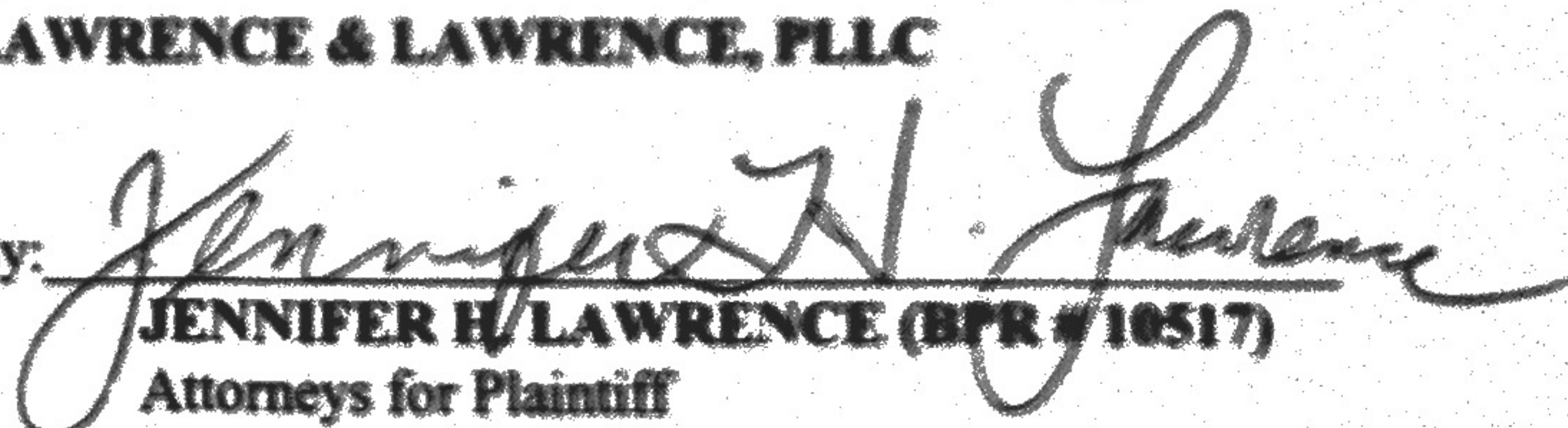
WITNESS my hand and seal, at office, this 23<sup>rd</sup> day of July, 2013.

  
Notary Public

My commission expires: 7-21-15



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