

IN THE CHANCERY COURT FOR DAVIDSON COUNTY, TENNESSEE

MISTY DAWN BELL, and all similarly situated individuals, designated herein as JANE DOES and JOHN DOES,

Plaintiffs,

v.

PROVIDENCE COMMUNITY CORRECTIONS, INC., inclusive of its parent and subsidiaries, and all persons and/or entities that cooperated and/or assisted the defendant relating to the actions referenced herein who are all designated herein as JOHN DOES and JANE DOES,

Defendants.

Case No. 11-95-I

JURY DEMAND

FILED  
2011 JAN 25 PM 12:43  
CLERK OF CHANCERY CT.  
DAVIDSON CO. TENN.  
DC&M

COMPLAINT

The Plaintiff, Misty Dawn Bell, files this action on behalf of herself and all similarly situated individuals, seeking certification of said plaintiffs as a class of plaintiffs for purposes of this litigation, and for their cause of action states as follows:

PARTIES

A. Plaintiffs

1. Plaintiff Misty Dawn Bell is an adult female, and a resident of Smyrna, Rutherford County, Tennessee.

2. The class of plaintiffs on whose relief is sought in this action is defined as persons residing in either Rutherford County, Tennessee or Davidson County, Tennessee, who have been subjected to the wrongful conduct by the Defendants as alleged herein during the time period on or after one year prior to the date of the filing of this lawsuit, and for such time period prior

thereto to the extent such conduct constitutes a continuing violation of the rights of the plaintiffs, subject only to the limits of the applicable statutes of limitation.

3. The class of plaintiffs represented herein is so numerous that joinder of all members is impracticable, and the claims of each of the plaintiffs all involve common questions of law and fact. The named plaintiff will fairly and adequately protect the interest of the class.

4. The Plaintiff request that this lawsuit be certified as a class action, and that the amendment of this Complaint be permitted to add such additional named plaintiffs as deemed appropriate.

B. Defendants.

5. Defendant Providence Community Corrections, Inc. ("PCC") is a foreign corporation, engaged in business in both Rutherford County, Tennessee and in Davidson County, Tennessee as well as in 44 other states. PCC has monitored probationers in both counties, and maintains an office in both counties.

6. Defendants Jane Does and John Does are individuals and/or entities who have cooperated, assisted, aided and/or abetted PCC in the wrongful conduct alleged herein. On information and belief, it is alleged that most, if not all of said individuals and/or entities, are residents of Rutherford County and/or Davidson County. This Complaint will be amended to specifically name said individuals and/or entities once those persons have been identified through the discovery process.

**VENUE AND JURISDICTION**

7. The claims for relief sought by the plaintiffs in this action arise out of events occurring in Davidson County, Tennessee and in Rutherford County, Tennessee. The Defendants are engaged in business in both counties, and therefore both venue and subject matter

jurisdiction are proper in this Court, and this Court may exercise personal jurisdiction over each of the Defendants.

8. The events giving rise to said claims occurred at the probation reporting locations of PCC at 317 Ash Street, Nashville, Davidson County, Tennessee 37210 and at 309 West Main Street, Murfreesboro, Rutherford County, Tennessee 37130, and at the courts of Rutherford County, Tennessee.

9. The actions complained of herein involve personnel employed by and/or otherwise affiliated with the courts of Rutherford County. Plaintiffs allege that such conflicts would arise by the courts of Rutherford County exercising jurisdiction over this matter, such that the courts of Davidson County are the more appropriate venue for this lawsuit.

#### **BACKGROUND**

10. At least as far back as 2003, the existence of opportunities for abuse of individuals by private probation companies has been recognized in this State. In a meeting of the Select Oversight Committee on Corrections held in December, 2003, Judge Chris Craft, then Criminal Court Judge of Division VIII of the Shelby County courts, noted that the Tennessee legislature had passed a statute allowing private probation companies in the state of Tennessee, and that prior thereto, all probation had either been done by the state or by local municipalities. A copy of the SOCC Meeting 12-1-03 & 12-2-03 Meeting Report is attached hereto as **Exhibit 1** and incorporated herein by reference. The Committee discussed the need for rules and regulations to be promulgated regulating private probation companies. Judge Craft noted that he was seeing a lot of what he felt was corruption and a lot of injustice resulting from the operation of private probation companies. Judge Craft noted the lack of requirements regarding owners and employees of private probation companies, in terms of their criminal records; i.e., the fact

that persons with convictions for rape, forgery, embezzlement, drug convictions, armed robbery, etc. are able to serve as monitors of persons placed on probation. Judge Craft noted the conflict of interest, and opportunities for abuse based on the for-profit status of the private probation companies. Judge Craft noted, as stated on page 4, that some private probation companies were “charging fees that frankly aren’t justified”, such as charging \$35.00 per month for a monthly drug screen when the drug test costs them \$15.00, and/or charging substantially more for a re-test without violating the person in the event of a failed drug test. Judge Craft also noted abuses such as charging individuals excessive amounts for the privilege of not reporting. Judge Craft noted, as stated on page 5, that some of the private probation companies, “we really suspect of doing things improperly with the probationers.” Judge Craft anticipated, as stated on page 6, that “We’re going to find people that are paying supervision fees that aren’t reported.” Judge Craft noted as stated on page 9, that the sole reason for the private process companies existence being to generate money and probationers are the sole source of revenue, provides greater likelihood of persons bribing and/or extorting money from probationers. Judge Craft noted, as stated on page 10, the obvious and inherent problems associated with Judges owning an interest in private probation companies.

11. Rules were promulgated by the Department of Commerce and Insurance, Division of Regulatory Boards, Private Probation Services Council relating to the provision of private probation services. A copy of said rules is attached hereto as **Exhibit 2** and incorporated herein by reference.

12. On December 5<sup>th</sup> and 6<sup>th</sup> 2005, the SOCC met at which time Judge Chris Craft noted that stemming corruption in the private probation industry in Tennessee was supposed to have been a priority dating back to 1998. Judge Craft noted some companies were charging as

much as \$300 for drug screens, that there was no regulatory agency to which victims of the companies could report violations, and that audits should and would be conducted on the Private Probation Companies. Judge Craft further spoke of anger of the Judges as it related to their Private Probation Companies, stating, "The Judges will be angry with us – they are protecting their own...a legislator has already contacted us...and wanting us to delay the process...we have received notes from several (private probation) companies saying they don't have to be regulated. Judge Craft refers to defendants sent to the Private Probation Companies as "money-making machines" for companies that offer no services. Judge Craft estimated that this designation applied to 30-40 thousand people. Judge Craft also discussed the opportunities for Judicial misconduct in conjunction with Private Probation companies while Jackson noted that, "For more than seven years the SOCC had been in receipt of reliable presentations of corruption within the system and we just sort of accept it. A copy of the SOCC Meeting 12-5-05 & 12-6-05 Meeting Report is attached hereto as **Exhibit 3** and incorporated herein by reference. (pp. 9-11).

13. A Memorandum dated April 1, 2008, confirms the recognition that problems regarding private probation companies continue to exist. A copy of that Memorandum is attached hereto as **Exhibit 4**, and incorporated herein by reference. Nothing, however, has been done to address the abusive practices of PCC as detailed herein. Plaintiffs in this action seek damages and injunctive relief relating to said abusive practices.

#### **GENERAL FACTUAL ALLEGATIONS**

14. By a Providence Community Corrections Service Agreement, Rutherford County contracted with PCC to provide private probation services ("the Agreement"). A copy of said Agreement is attached hereto as **Exhibit 5** and incorporated herein by reference.

15. Defendant PCC, acting under color of law, and by authority granted by the State of Tennessee, provides private probation services in Middle Tennessee. The other Jane Does and John Does Defendants assisted PCC in engaging in the abusive and unauthorized conduct alleged herein.

16. Persons on probation relating to crimes allegedly committed in Middle Tennessee are assigned to be monitored by the PCC during the time that said individuals are placed on probation by the State of Tennessee.

17. Persons on probation would be required to pay fees as demanded by PCC. The fees collected are in part court costs assessed by the Court, and in part monitoring fees charged by the private probation service.

18. Relating to the private probation services provided by PCC, the requirements of the Fair Debt Collection Practices Act, the requirements of the both state and federal consumer protection laws, and the requirements of other state and federal law apply (hereinafter referred to herein as the "applicable law").

19. PCC engages in intentional, willful, and reckless conduct as described herein in complete disregard of the applicable law.

20. PCC isolates those placed on probation, using intimidation and threats to coerce signatures on contracts between the persons on probation and PCC.

21. On information and belief, plaintiffs allege that PCC adulterates urine samples and/or otherwise causes or reports positive drug tests regarding persons that have not used drugs.

22. PCC extorts monies in excess of the fees authorized by applicable law and/or contracts.

23. On information and belief, plaintiffs allege that employees and/or agents of PCC engage in sexual harassment and sexual assault.

24. PCC uses threats and intimidation to force probationers to drop out of school, and/or take other actions as necessary to pay the excess fees that are being demanded.

25. The County Sheriff's Deputies, act as agents of PCC, adding to said intimidation, harassment and threatened physical assault against probationers, due that the fact that said Sheriff's Deputies are armed.

26. PCC employees and/or agents threaten and/or procure the incarceration of probationers as a means of furthering said intimidation, harassment and threatened physical assault against probationers.

27. PCC and Judges incarcerate probationers based on their inability to pay.

28. On information and belief, it is alleged that PCC backdates documentation.

29. By a Providence Community Corrections Services Agreement, executed in December, 2006, between Rutherford County, Tennessee and Providence Community Corrections, Inc. ("the PCC Contract"), PCC contracted to provide services as a private probation company supervising probationers living in Davidson County, Tennessee and Rutherford County, Tennessee for a term of two (2) years, plus subsequent one (1) year renewal terms. A copy of the Private Probation Company Contract is attached hereto as **Exhibit 5** and incorporated herein by reference. The Contract contained a Scope of Services provision and a Cost and Fee Schedule. On information and belief, the plaintiffs assert that PCC has continued to provide private probation services in Rutherford County and in Davidson County since 2006 governed by the provisions of the PCC Contract.

30. PCC operates in Davidson County, Tennessee from offices located at 317 Ash Street, Nashville, Davidson County, Tennessee. PCC operates in Rutherford County from offices located at 309 West Main Street, Murfreesboro, Rutherford County, Tennessee. During all times reference herein, the plaintiffs have reported to PCC at one of said two locations, depending on the residence address of the plaintiff.

#### SPECIFIC FACTUAL ALLEGATIONS

31. On October 10, 2008, Misty Dawn Bell was placed on probation by the Criminal Circuit Court of Rutherford County for a term of 11 months and 29 days. A copy of documents relating to her probation is attached hereto as Exhibit 6. The Court Ordered Fees and Fines were Criminal Injuries Compensation Fund of \$26.50, Court Costs of \$911.50, and a Fine Assessed of 250.00, for a total of \$1,188.00.

32. Ms. Bell was advised that PCC would monitor her probation, and she was “required to attend a mandatory probation orientation”, and that on that day she was required to make a payment of \$151.00. Documents provided stated that \$51.00 would be applied to probation fees owed and \$100.00 would be applied to court costs and fines.

33. PCC demanded a supervision fee payment, one week after Ms. Bell had been placed on probation, of \$51.00 even though the supervision fee was \$45.00 per month, and even though PCC was expressly prohibited from requiring any supervision fees to be paid in advance.

34. PCC demanded a “Picture Fee” even though PCC was not authorized to collect any such fee.

35. Because of illnesses, Ms. Bell first reported to PCC on November 13, 2008. The receipt notes that Ms. Bell is being required to pay the \$5.00 “Picture Fee.” On that date, PCC collected \$50.00 from Ms. Bell, even though the receipt noted that \$45.00 was the accrued



amount, and even though PCC was expressly prohibited from collecting supervision fees in advance. A copy of said receipt is attached hereto as **Exhibit 7**, and incorporated herein by reference.

36. As noted on a receipt dated December 29, 2008, a copy of which is attached hereto as **Exhibit 8**, by that date PCC had collected from Ms. Bell the \$5.00 "Picture Fee" and \$135.00 in Supervision Fees.

37. Attached hereto as **Exhibit 9** are PCC receipts dated July 2, 2009 and August 27, 2009. As noted on those receipts, the amount required from Ms. Bell in Supervision Fee increased from \$540.00 to \$900.00. The amount required from Ms. Bell in Court Costs increased from \$1,188.00 to \$1,427.00. The amount required from Ms. Bell as TN Prob Council fee increased from \$4.00 to \$8.00. Despite all the payments made by Ms. Bell, as of August 27, 2009, according to PCC, Ms. Bell owed essentially the same amount as when her probation began.

38. Attached hereto as **Exhibit 10** is a PCC receipt dated October 15, 2009. Having been on probation for approximately the full 11 months and 29 days, and having paid over \$570.00 in Supervision Fees, and over \$340.00 in Court Costs, the amount that PCC was advising Ms. Bell she was still required to pay exceeded her original balance when she was first placed on probation.

39. Ms. Bell was placed on probation on October 10, 2008. The fees and costs were to be paid within the probationary period of eleven months and twenty-nine days. By that point, Ms. Bell had paid more than the amount that PCC was authorized to collect as its Supervision Fee. Ms. Bell had paid \$340.00 of the \$1,188.00 assessed in court costs. Therefore, Ms. Bell

should have been able to satisfy the conditions of her probation by paying an additional amount of approximately \$840.00.

40. Notwithstanding the actual fees and costs which PCC could lawfully collect from Ms. Bell, PCC was demanding from Ms. Bell an amount almost double the actual amount owed. A copy of the letter forwarded to Ms. Bell demanding the excess fees is attached hereto as **Exhibit 11**.

41. On information and belief, Ms. Bell alleges that she has actually paid to PCC amounts in excess of those reflected on the PCC receipts.

42. The intent and effect of PCC's wrongful conduct is to misrepresent the actual amount owed by probationers, to collect amounts in excess of amounts PCC is lawfully authorized to collect, to extend the probation period of probationers for as long as possible during which time the probationer is required to continue to pay to PCC \$45 per month,

43. Attached hereto as **Exhibit 12** is a PCC receipt dated November 4, 2010. According to this receipt, through October 2010, during the two years that Ms. Bell had been on probation, she had paid \$1,030.00 in Supervision Fees, and \$627.00 in Court Costs, yet PCC was advising Ms. Bell that Ms. Bell still had a balance owing of \$1,418.00.

44. On information and belief, Ms. Bell alleges that her experience with PCC is not unlike that of the other persons on whose behalf she files this claim. Ms. Bell was required to pay an unauthorized \$5.00 "Picture Fee". Ms. Bell was required to make advance payments of Supervision Fees, in violation of the authority of PCC. Ms. Bell has been required to pay excess fees to PCC. PCC engaged in misleading and deceptive practices, which prevented Ms. Bell from knowing her actual rightful balance owed relating to her probation, resulting in her probation being extended beyond eleven months and 29 days.

45. In dealing with probationers, on information and belief, Ms. Bell alleges that PCC willfully and intentionally fails to comply with the terms of probation noted on the Misdemeanor Sentence form and required by the applicable law and by the PCC Contract. Instead, consistent with their pattern of practice, PCC engages in virtually each of the acts of injustice regarding which Judge Craft had voiced concerns in 2003.

46. As a result of the wrongful acts and practices of PCC, one year probation of Ms. Bell still had not ended as of the date of the filing of this lawsuit. On information and belief, Ms. Bell alleges that the probation of persons initially placed on probation for 11 months and 29 days routinely lasts in excess of three (3) years as a result of the wrongful conduct of PCC. On information and belief, Ms. Bell alleges that the probation of one individual has lasted in excess of eight (8) years.

***COUNT I – Fair Debt Collection Practices Act Claim***

47. The allegations of paragraphs 1 through 46 above are hereby incorporated herein by reference, as thought fully restated verbatim herein.

48. In collecting court costs and other fees on behalf of the State of Tennessee and/or Rutherford County, PCC acts as a debt collector.

49. The actions of PCC and the other Defendants as alleged herein, constitute intentional, willful, and/or reckless violations of the Fair Debt Collection Practices Act (“FDCPA”).

50. As a result of said wrongful conduct, each of the plaintiffs is entitled to recover compensatory damages, treble damages, punitive damages, and attorneys’ fees.

***COUNT II – Consumer Protection Act Claims***

51. The allegations of paragraphs 1 through 50 above are hereby incorporated herein by reference, as thought fully restated verbatim herein.

52. With respect to the receipt of private probation services by each of the plaintiffs from PCC, each of the plaintiffs is a consumer for purposes of both federal and state consumer protection laws.

53. The actions of PCC and the other Defendants as alleged herein, constitute intentional, willful, and/or reckless violations of both federal and state consumer protection laws.

54. As a result of said wrongful conduct, each of the plaintiffs is entitled to recover compensatory damages, treble damages, punitive damages, and attorneys' fees.

***COUNT III – Tort Claims***

55. The allegations of paragraphs 1 through 54 above are hereby incorporated herein by reference, as thought fully restated verbatim herein.

56. With respect to the Plaintiffs, where applicable, Plaintiffs allege that with respect to said probationers, PCC engaged in abusive conduct, including threats, intimidation, extortion, sexual assaults, sexual harassment, emotional abuse, physical abuse, and/or other similar conduct, in violation of applicable state law.

57. The actions of PCC and the other Defendants as alleged herein, constitute intentional, willful, and/or reckless violations of state laws.

58. As a result of said wrongful conduct, each of the plaintiffs is entitled to recover compensatory damages, treble damages, punitive damages, and attorneys' fees.

***COUNT IV – Punitive Damages Claim***

59. The allegations of paragraphs 1 through 58 above are hereby incorporated herein by reference, as thought fully restated verbatim herein.

60. With respect to the wrongful conduct engaged in by PCC with respect to the probationers, PCC acted with complete disregard for the rights of the probationers, and in complete disregard of all contractual and statutory obligations.

61. The actions of PCC, as aided by the other Defendants as alleged herein, constitute intentional, willful, and/or reckless conduct.

62. As a result of said wrongful conduct, each of the plaintiffs is entitled to recover compensatory damages, treble damages, punitive damages, and attorneys' fees.

***PRAYER FOR RELIEF***

WHEREFORE, Plaintiffs requests a judgment against Defendant, as follows:

1. That proper process issue and be served upon the Defendants and that the Defendants be required to appear and answer this Complaint within the time required by law;
2. That the Court grant to the plaintiffs injunctive relief in such form as deemed by the Court to be just and proper.
3. That this Court certify this lawsuit as a class action, and order such processes and procedures as this Court finds to be appropriate.
4. That a jury of twelve persons be impaneled to try this cause.
5. That each Plaintiff be awarded compensatory and punitive damages in a total amount to be determined by a jury, up to \$75,000.00, plus attorneys' fees.
6. For discretionary and court costs to be taxed to the Defendants; and
7. Such further and other general relief to which Plaintiff may be entitled.

Respectfully submitted,

BOOKER LEGAL GROUP, P.C.

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**VERIFICATION**

The undersigned, having been first duly sworn, do depose and state that the information contained in this Complaint is true and accurate to the best of the undersigned's information, knowledge and belief.

*Misty Dawn Bell*  
Misty Dawn Bell

SUBSCRIBED AND SWORN TO BEFORE ME  
THIS 23<sup>rd</sup> DAY OF January, 2010.

*Tracy L. Love*  
Notary Public

My Commission Expires: March 4, 2013

