



COUNSELING AND THERAPY SUMMIT 2017

ETHICS UPDATE

BRUCE A. MCCURDY, ED.D.
GEORGE T. DAVIS, PH.D. J.D.
APRIL 21, 2017





On Phone or Computer:

www.pollev.com/conf2017

Slides will be available at:

www.TennLegal.com/Downloads/Conf2017



LTE 35% 11:08 PM

< 22333



11:06 AM CONF2017



You've joined George Davis' session (CONF2017). When you're done, reply LEAVE

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Powered by
PollEverywhere.com

11:06 AM

11:07 AM

A



Your presenter, George Davis (CONF2017), has not opened a poll yet. Try again when they have activated a poll.

--
Powered by
PollEverywhere.com

11:07 AM

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11:16 AM

D



You can't vote any more on this poll. To clear your

Enter message

SEND



Background

Bruce McCurdy, Ed.D.

E.D. Counseling Psychology, 1995

Counseling Psychologist, Health Service Provider and
Director of the Counseling Center at Christ
Community Church, Franklin, TN

Adjunct Professor at Trevecca University

Department of Graduate Counseling since 2006

Contact Dr. McCurdy at bruce@counseling-c3.com

Background

George T. Davis, Ph.D. J.D.

Ph.D. Clinical Psychology 1984

J.D. Law 1999

Consultant with SSA disability determination since 1986

Adjunct Professor at Vanderbilt/Peabody Human

Development and Counseling Program since 2006

Legislative Liaison Tennessee Psychological Association

Private Practice in Family Law

Contact Dr. Davis at GeorgeDavis@TennLegal.com



Disclaimer

- Anything we say may be wrong and immediately refuted by those more knowledgeable
- Don't rely on anything we say



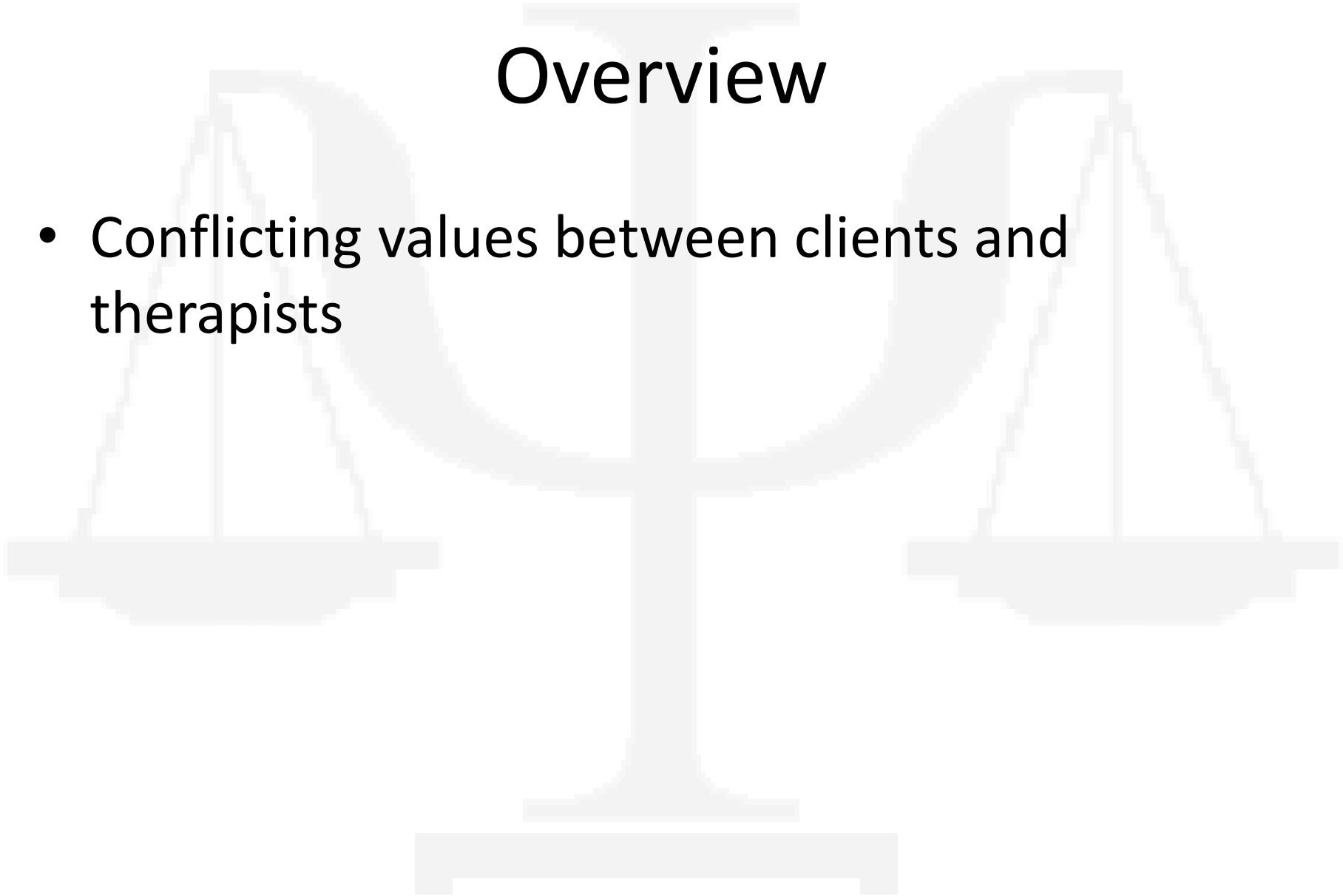
Test poll

Overview



Overview

- Conflicting values between clients and therapists



Overview



- Conflicting values between clients and therapists
- Subpoena response

Overview



- Conflicting values between clients and therapists
- Subpoena response
- Abuse, neglect or dangerous clients

Overview



- Conflicting values between clients and therapists
- Subpoena response
- Abuse, neglect or dangerous clients
- Employer considerations

Overview



- Conflicting values between clients and therapists
- Subpoena response
- Abuse, neglect or dangerous clients
- Employer considerations
- Social media world

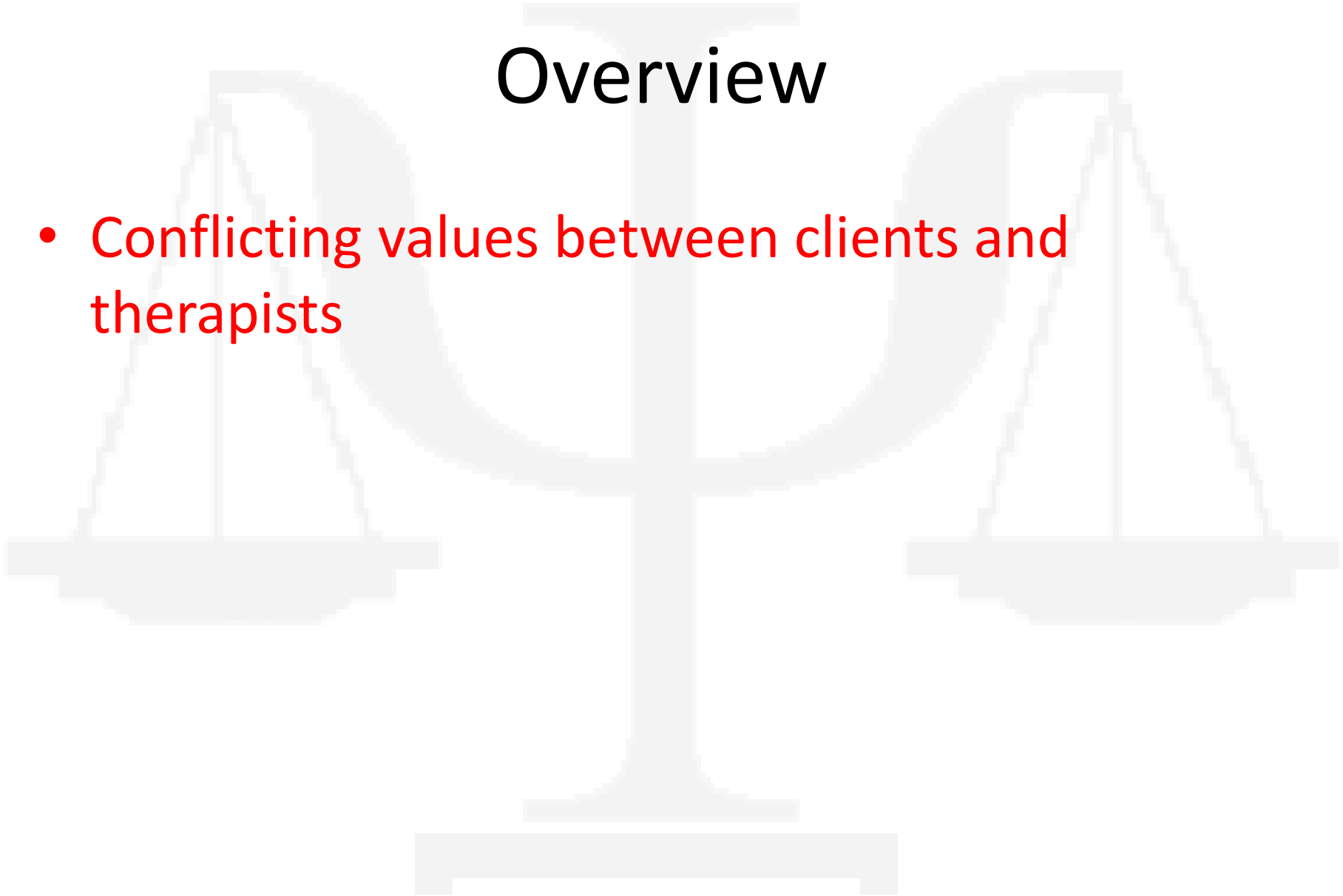
Overview



- Conflicting values between clients and therapists
- Subpoena response
- Abuse, neglect or dangerous clients
- Employer considerations
- Social media world
- Electronic issues impacting therapists

Overview

- Conflicting values between clients and therapists





Value Conflicts poll #1



Value Conflicts poll #2

Bracketing



The counselor's ability to take his or her own personal values and set them aside — suspend them, but not give them up or change them. In essence, it is being aware of yourself and the impact that you have on that client in front of you.



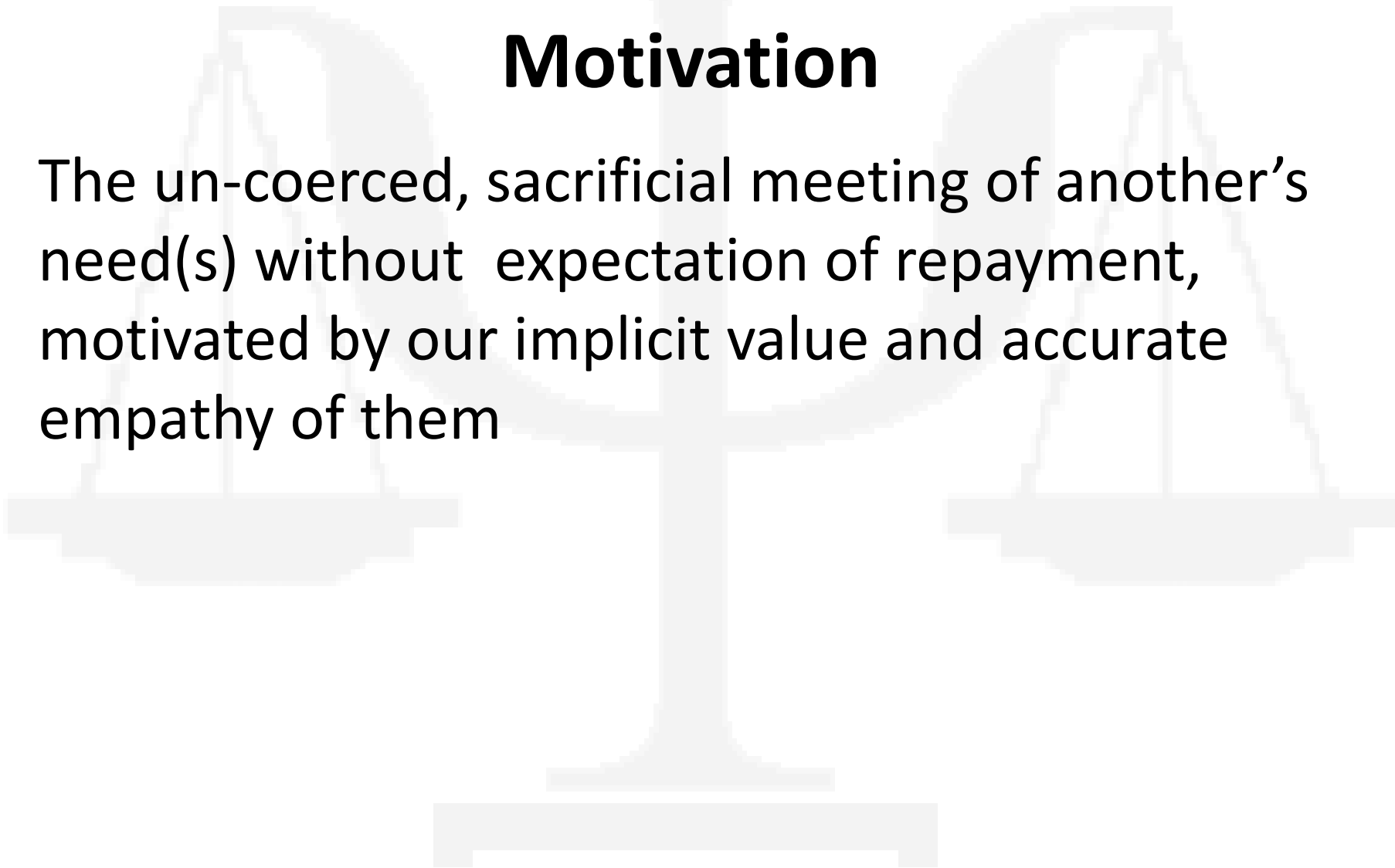
Value Conflicts poll #3



Value Conflicts poll #4

Human Altruistic Behavior and Motivation

The un-coerced, sacrificial meeting of another's need(s) without expectation of repayment, motivated by our implicit value and accurate empathy of them





Value Conflicts poll #5

ACA 2014 Ethics Code

A.11.b. Values Within Termination and Referral

Counselors refrain from referring prospective and current clients based solely on the counselor's personally held values, attitudes, beliefs, and behaviors. Counselors respect the diversity of clients and seek training in areas in which they are at risk of imposing their values onto clients, especially when the counselor's values are inconsistent with the client's goals or are discriminatory in nature.

PC#926 Values-based Referral Bill (2016)


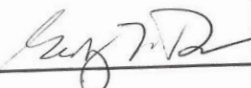
Key components of the law

1. Mental health professionals in private practice *may not be required* to provide counseling services when there is a conflict b/
2. “Goals, outcomes or behaviors” of clients, and the
3. “Sincerely held principles” of counselors, as long as the counselor can
4. Coordinate a referral to a willing counselor, and the
5. Client is not imminently dangerous to self or other

Overview



- Conflicting values between clients and therapists
- **Subpoena response**

STATE OF TENNESSEE DAVIDSON COUNTY Circuit Court	SUBPOENA <input type="checkbox"/> TESTIMONY/PRODUCTION REQUIRED (SEE NOTICE BELOW) <input checked="" type="checkbox"/> MEDICAL RECORDS (SEE HIPAA REQUIREMENT BELOW)	CIVIL ACTION DOCKET NO. <u>17-D1234</u>				
<table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none;"> PLAINTIFF SMITH, BOB </td> <td style="width: 10%; border: none; text-align: center;">vs.</td> <td style="width: 40%; border: none;"> DEFENDANT SMITH, MARY </td> </tr> </table>			PLAINTIFF SMITH, BOB	vs.	DEFENDANT SMITH, MARY	
PLAINTIFF SMITH, BOB	vs.	DEFENDANT SMITH, MARY				
TO: (NAME, ADDRESS & TELEPHONE NUMBER OF WITNESS) D. Bradley, LMFT 123 Main Street Franklin, TN 37064		Method of Service: <input type="checkbox"/> Davidson County Sheriff <input checked="" type="checkbox"/> Personal Service <input type="checkbox"/> Out of County Sheriff				
You are hereby commanded to appear at the time, date and place specified for the purpose of giving testimony. In addition, if indicated, you are to bring the items listed. Failure to appear may result in contempt of Court which could result in punishment by fine and/or imprisonment as provided by law.						
<table style="width: 100%; border: none;"> <tr> <td style="width: 20%; border: none;">TIME</td> <td style="width: 20%; border: none;">4/22/17</td> <td style="width: 20%; border: none;">DATE</td> <td style="width: 40%; border: none;">9am</td> </tr> </table>	TIME	4/22/17	DATE	9am	ITEMS TO BRING: all medical records	
TIME	4/22/17	DATE	9am			
PLACE Circuit Court Clerk 1 Public Square, Room 302 Nashville, TN 37201 (OR) Office of George Davis, Esq. 6307 Ramsgate Court Brentwood, TN 37027	<input type="checkbox"/> Additional List Attached					
This subpoena is being issued on behalf of <input checked="" type="checkbox"/> PLAINTIFF <input type="checkbox"/> DEFENDANT Attorney: (NAME, ADDRESS & TELEPHONE NUMBER) George Davis, Esq. 6307 Ramsgate Court Brentwood, TN 37027		DATE ISSUED: RICHARD R. ROOKER Circuit Court Clerk  BY: _____ DEPUTY CLERK				
ATTORNEY'S SIGNATURE:  DESIGNEE: _____ DESIGNEE'S SIGNATURE: _____	<input checked="" type="checkbox"/> To request an ADA accommodation, please contact Dart Gore at 880-3309.					
<input checked="" type="checkbox"/> Testimony/Production required.						
TESTIMONY/PRODUCTION NOTICE The failure to serve an objection to this Subpoena within twenty-one (21) days after the day of service of the Subpoena waives all objections to the Subpoena, except the right to seek the reasonable costs for producing books, papers, documents, electronically stored information, or tangible things.						
<input checked="" type="checkbox"/> Medical Records Requested – HIPAA notice required.						
HIPAA NOTICE A copy of this Subpoena has been provided to counsel for the patient or the patient by mail or facsimile on the <u>19th</u> day of <u>April</u> , 20 <u>17</u> , so as to allow him/her twenty-one (21) days to:						
(A) Serve the recipient of the Subpoena by facsimile with a written objection to the Subpoena, with a copy of the Notice by facsimile to the party that served the Subpoena, and (B) Simultaneously file and serve a Motion for a Protective Order consistent with the requirements of T.R.C.P. 26.03, 26.07 and Local Rule §22.10.						
If no objection is made within twenty-one (21) days of the above date, you shall process this Subpoena and produce the documents by the date and time specified in the Subpoena. The signature of counsel or party on the Subpoena is certification that the above Notice was provided to the patient.						

SUBMIT: Original, Witness Copy & File Copy

[Revised 7/23/13]

STATE OF TENNESSEE
DAVIDSON COUNTY
Circuit Court

SUBPOENA

CIVIL ACTION

- TESTIMONY/PRODUCTION REQUIRED (SEE NOTICE BELOW)
 MEDICAL RECORDS (SEE HIPAA REQUIREMENT BELOW)

DOCKET NO. 17-D1234

PLAINTIFF
SMITH, BOB

DEFENDANT
vs. SMITH, MARY

TO: (NAME, ADDRESS & TELEPHONE NUMBER OF WITNESS)
D. Bradley, LMFT
123 Main Street
Franklin, TN 37064

Method of Service:

- Davidson County Sheriff
 Personal Service
 Out of County Sheriff

You are hereby commanded to appear at the time, date and place specified for the purpose of giving testimony. In addition, if indicated, you are to bring the items listed. Failure to appear may result in contempt of Court which could result in punishment by fine and/or imprisonment as provided by law.

TIME
4/22/17

DATE
9am

ITEMS TO BRING:
all medical records

PLACE
Circuit Court Clerk
1 Public Square, Room 302
Nashville, TN 37201
(OR)
Office of Court Reporters



Subpoena poll #1



Subpoena poll #2

A faint, light gray background image of a pair of scales of justice. The scales are centered and consist of a vertical pillar with a horizontal beam at the top and a horizontal base at the bottom. Two pans are suspended from the beam by thin vertical lines. The text "Subpoena poll #3" is overlaid in the center of the scales.

Subpoena poll #3

STATE OF TENNESSEE
DAVIDSON COUNTY
Circuit Court

SUBPOENA

CIVIL ACTION

- TESTIMONY/PRODUCTION REQUIRED (SEE NOTICE BELOW)
 MEDICAL RECORDS (SEE HIPAA REQUIREMENT BELOW)

DOCKET NO. 17-D1234

PLAINTIFF
SMITH, BOB

DEFENDANT
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TO: (NAME, ADDRESS & TELEPHONE NUMBER OF WITNESS)
D. Bradley, LMFT
123 Main Street
Franklin, TN 37064

Method of Service:

- Davidson County Sheriff
 Personal Service
 Out of County Sheriff

You are hereby commanded to appear at the time, date and place specified for the purpose of giving testimony. In addition, if indicated, you are to bring the items listed. Failure to appear may result in contempt of Court which could result in punishment by fine and/or imprisonment as provided by law.

TIME
4/22/17

DATE
9am

ITEMS TO BRING:
all medical records

PLACE
Circuit Court Clerk
1 Public Square, Room 302
Nashville, TN 37201
(OR)
Office of County Clerk

What to bring?



There are typically five parts of a clinical file:

1. Medical records
2. Psychotherapy notes
3. Medical records received from third parties
4. Test results
5. Test forms

What to bring?



Medical records (Rule 1180-1-.06)

- (i) modalities and frequencies of treatment furnished
- (ii) results of clinical tests
- (iii) counseling session start and stop times
- (iv) summaries of:
 - (I) diagnosis
 - (II) functional status
 - (III) treatment plan
 - (IV) symptoms
 - (V) prognosis
 - (VI) progress to date

What to bring?

Not included in patient records are:

(i) test data – raw and scaled scores, client/patient responses to test questions or stimuli,

and notes and recordings concerning client/patient statements and behavior during an examination.

(ii) test materials – manuals, instruments, protocols, and test questions or stimuli.

(iii) psychotherapy notes – notes recorded (in any medium) by a psychologist, senior

psychological examiner or psychological examiner, who is designated as a health service provider as defined in Rule 1180-1-.01, that document or analyze the contents

of conversation during a private counseling session or a group, joint, or family counseling session and that are separated from the rest of the individual's patient record.

What to bring?

STATE OF TENNESSEE DAVIDSON COUNTY Circuit Court		SUBPOENA		CIVIL ACTION	
		<input type="checkbox"/> TESTIMONY/PRODUCTION REQUIRED (SEE NOTICE BELOW)			
		<input checked="" type="checkbox"/> MEDICAL RECORDS (SEE HIPAA REQUIREMENT BELOW)			
PLAINTIFF SMITH, BOB		DEFENDANT SMITH, MARY		DOCKET NO. 17-D1234	
vs.					
TO: (NAME, ADDRESS & TELEPHONE NUMBER OF WITNESS) D. Bradley, LMFT 123 Main Street Franklin, TN 37064			Method of Service: <input type="checkbox"/> Davidson County Sheriff <input checked="" type="checkbox"/> Personal Service <input type="checkbox"/> Out of County Sheriff		
You are hereby commanded to appear at the time, date and place specified for the purpose of giving testimony. In addition, if indicated, you are to bring the items listed. Failure to appear may result in contempt of Court which could result in punishment by fine and/or imprisonment as provided by law.					
TIME 4/22/17	DATE 9am	ITEMS TO BRING: all medical records			
PLACE	Circuit Court Clerk 1 Public Square, Room 302 Nashville, TN 37201 (OR)				

What to bring?



There are typically five parts of a clinical file:

1. Medical records
2. Psychotherapy notes
3. Medical records received from third parties
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5. Test forms

What to bring?



There are typically five parts of a clinical file:

1. Medical records
2. Psychotherapy notes
- ~~3. Medical records received from third parties~~
4. Test results
5. Test forms

What to bring?



There are typically five parts of a clinical file:

1. Medical records
2. Psychotherapy notes
- ~~3. Medical records received from third parties~~
4. Test results
- ~~5. Test forms~~

What to bring?



There are typically five parts of a clinical file:

1. Medical records
2. Psychotherapy notes ???? (If “all records”)
- ~~3. Medical records received from third parties~~
4. Test results
- ~~5. Test forms~~

What to bring?

There are typically five parts of a clinical file:

1. Medical records
2. Psychotherapy notes ????? (If “all records”)
- ~~3. Medical records received from third parties~~
 - Test results (if not “all records” omit raw and scaled scores, client/patient responses to test questions or stimuli, and notes and recordings concerning client/patient statements and behavior during an examination.)
- ~~1. Test forms~~



Subpoena poll #4



Subpoena poll #5

DESIGNEE'S SIGNATURE:

To request an ADA accommodation, please contact Dart Gore at 880-3309.

Testimony/Production required.

TESTIMONY/PRODUCTION NOTICE

The failure to serve an objection to this Subpoena within twenty-one (21) days after the day of service of the Subpoena waives all objections to the Subpoena, except the right to seek the reasonable costs for producing books, papers, documents, electronically stored information, or tangible things.

Medical Records Requested – HIPAA notice required.

HIPAA NOTICE

A copy of this Subpoena has been provided to counsel for the patient or the patient by mail or facsimile on the 19th day of April, 2017, so as to allow him/her twenty-one (21) days to:

- (A) Serve the recipient of the Subpoena by facsimile with a written objection to the Subpoena, with a copy of the Notice by facsimile to the party that served the Subpoena, and
- (B) Simultaneously file and serve a Motion for a Protective Order consistent with the requirements of T.R.C.P. 26.03, 26.07 and Local Rule §22.10.

If no objection is made within twenty-one (21) days of the above date, you shall process this Subpoena and produce the documents by the date and time specified in the Subpoena. The signature of counsel or party on the Subpoena is certification that the above Notice was provided to the patient.

SUBMIT: Original, Witness Copy & File Copy

[Revised 7/23/13]



Subpoena poll #6

Overview



- Conflicting values between clients and therapists
- Subpoena response
- Abuse, neglect or dangerous clients



Dangerous poll #1



Dangerous poll #2



Dangerous poll #3

2010 Tennessee Code Title 39 - Criminal Offenses
Chapter 11 - General Provisions Part 1 - Construction

39-11-106. Title definitions.

(a) As used in this title, unless the context requires otherwise:

(2) “Bodily injury” includes a cut, abrasion, bruise, burn or disfigurement, and physical pain or temporary illness or impairment of the function of a bodily member, organ, or mental faculty;

(34) “Serious bodily injury” means bodily injury that involves:

(A) A substantial risk of death;

(B) Protracted unconsciousness;

(C) Extreme physical pain;

(D) Protracted or obvious disfigurement;

(E) Protracted loss or substantial impairment of a function of a bodily member, organ or mental faculty; or

(F) A broken bone of a child who is eight (8) years of age or less

A faint, light gray background image of a pair of scales of justice. The scales are centered and consist of a vertical pillar with a horizontal beam at the top and a horizontal base at the bottom. Two pans are suspended from the beam by thin vertical lines. The text "Dangerous poll #4" is overlaid in the center of the scales.

Dangerous poll #4

A faint, light gray background image of a pair of scales of justice. The scales are centered and consist of a vertical beam with a horizontal top bar and a horizontal base. Two pans are suspended from the beam by thin vertical lines. The text "Dangerous poll #5" is overlaid in the center of the scales.

Dangerous poll #5

Overview



- Conflicting values between clients and therapists
- Subpoena response
- Abuse, neglect or dangerous clients
- **Employer considerations**

Therapist Sexual Misconduct Victims Compensation Act

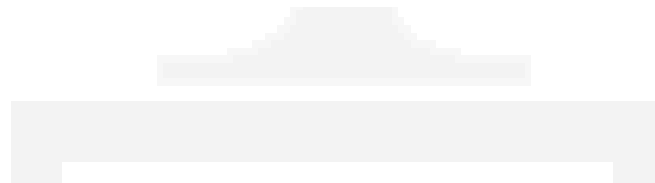
29-26-201. Short title.

The title of this part is, and may be cited as, the "Therapist Sexual Misconduct Victims Compensation Act." (2012)

29-26-202. Intent.

It is the intention of the general assembly to provide victims of sexual misconduct by a therapist with a legal remedy, including significant compensatory damages and a more reasonable statute of limitations. It is intended to prevent sexual misconduct by a therapist by imposing significant liability upon any therapist who engages in this type of misconduct. This is necessary due to the inadequacy of the current system of health care liability where the statute of limitations fails to address the specific problems associated with sexual misconduct by a therapist. This part also clarifies the legal landscape and attempts to prevent most instances of sexual misconduct by making employers liable if they refuse to take simple and reasonable steps to avoid endangering their patients.

29-26-203. Part definitions.



(7) (A) "Sexual misconduct" means any of the following, regardless of the consent of the patient:

(i) Any intrusion into an opening of the patient's body by any part of the therapist's body, or an object used by the therapist to effect an intrusion for the purpose of sexual arousal or gratification;

(ii) Any intrusion into an opening of the therapist's body by any part of the patient's body, or an object used by the patient to effect an intrusion for the purpose of sexual arousal or gratification where the therapist has consented to the conduct verbally or by acquiescence;

(iii) Touching of the patient's body by the therapist for the purpose of sexual arousal or gratification; or

(iv) Touching of the therapist's body by the patient for the purpose of sexual arousal or gratification where the therapist has consented to the conduct verbally or by acquiescence; **(B)** Sexual misconduct includes attempts by the therapist to engage in the conduct described in subdivisions (7)(A)(i) -- (iv), inclusive; and

(8) "Therapist" means any person who performs therapy regardless of whether the person is licensed by the state; and

(9) "Therapy" means action by a person who represents that the person is and does practice the professional treatment, assessment, or counseling of a mental or emotional disorder, illness, condition or symptom. "Therapy" includes, but is not limited to, marital counseling, substance abuse treatment, and family counseling. Therapy begins the first time the patient seeks the therapist's assistance as a therapist. "Therapy" includes services provided without charge if they otherwise meet the definition.

29-26-204. Elements.

A cause of action for sexual misconduct exists for a claimant where the sexual misconduct occurred:

(1) During the time when the patient was receiving therapy from the therapist; or

(2) After the patient has stopped receiving therapy from the therapist if the patient is still emotionally dependent upon the therapist or the sexual misconduct was the result of deception; or



Employer poll #1

A faint, light gray background image of a pair of scales of justice. The scales are centered and consist of a vertical pillar with a horizontal beam at the top and a horizontal base at the bottom. Two curved pans are suspended from the beam, one on each side. The text "Employer poll #2" is overlaid in the center of the scales.

Employer poll #2



Employer poll #3



Employer poll #4



Employer poll #5

29-26-206. Employer liability.

(a) An employer of a therapist may be liable under § 29-26-204 if sexual misconduct occurred as provided in § 29-26-204, and either of the following applies:

(1) The employer fails to take reasonable action when the employer knows or has reason to know that the therapist has engaged in sexual misconduct with any patient; or

(2) The employer fails to make inquiries of a former employer concerning past sexual misconduct of the therapist and the:

(A) Former employer's name and address has been disclosed to the employer;

(B) Therapist was employed by the former employer as a therapist within five (5) years of the date of employment as a therapist for the employer and during the period of prior employment the therapist engaged in sexual misconduct.

(b) An employer or former employer of a therapist may be liable under § 29-26-204 if:

(1) Sexual misconduct occurred as provided in § 29-26-204;

(2) The employer or former employer receives a written request from another employer or prospective employer concerning sexual misconduct by the therapist;

(3) The employer or prospective employer is considering the therapist for a therapist position; and

(4) The employer or former employer knows or has reason to know of the sexual misconduct and fails or refuses to disclose to the requesting employer the occurrence of sexual misconduct by the therapist.

(c) An employer or former employer who gives information concerning sexual misconduct by a therapist when presented with a request for such information by a prospective employer of the therapist is absolved from any legal liability due to the therapist's failure to find employment or damage to the therapist's reputation as a result of the information provided, unless the information is false and the reporting employer knew or should have known that the information was false.

Overview



- Conflicting values between clients and therapists
- Subpoena response
- Abuse, neglect or dangerous clients
- Employer considerations
- **Social media world**



Definition of Social Media

“Activities, practices, and behaviors among communities of people who gather online to share information, knowledge, and opinions using conversational media”

(Boyd & Ellison, 2007)



Social Media poll #1

ACA Code of Ethics (ACA, 2014)

Section H.6: Social Media

H.6.a Virtual Professional Presence

Separate professional and personal web pages and profiles
Clearly distinguish between the two

H.6.b Social Media as Part of Informed Consent

Clearly explain policy to clients
Benefits, limitations, boundaries

H.6.c Client Virtual Presence

Counselors respect the privacy of clients' presence on social media

Must have *consent* to view

H.6.d Use of Public Social Media

Counselors take precautions to avoid disclosing confidential information through public social media

- Murphy, Teri (2017) adapted from presentation



Social Media poll #2

Daily Mail.com

By [Sam Matthew](#) and [Lydia Willgress for MailOnline](#)

PUBLISHED: 13:34 EDT, 18 July 2015 | **UPDATED:** 20:24 EDT, 18 July 2015

Jeremy Hunt in hot water after 'breaching patient confidentiality' by posting hospital visit picture on Twitter with board of names on it
Jeremy Hunt posted picture today of himself with medics Hospital
Image captured a board listing patients on the ward in background
Was defending plans for new seven-day working contract for NHS staff
Emerged picture was also taken yesterday and not during weekend shift

Health Secretary Jeremy Hunt has been accused of breaching patient confidentiality by tweeting a photo to his 70,000 followers from a hospital visit. He came under fire after the image of himself with medics at University College Hospital in London captured a board listing patients on the ward in the background.

The picture was soon edited to take out the information, but critics demanded Mr. Hunt issue an apology for the apparent breach in patient confidentiality.

**Confidential patient details
were on this board**





Social Media poll #3



Social Media poll #4

Message re: PCC

Fuchs, Catherine

Sent: Thursday, November 10, 2016 7:26 PM

This message is sent on behalf of the VUMC Psychological & Counseling Center, the VUMC Privacy Office, and the VU Dean of Students.

Dear Student,

Earlier today you may have received a message from the VUMC Psychological & Counseling Center as part of the PCC's regular Student Satisfaction Survey. Although the Survey was intended to be distributed by blind copy, it was instead erroneously sent with recipients' names and email addresses disclosed.

The PCC sincerely apologizes for this error, which we know may have caused distress for a number of you. Please know that we are committed to ensuring the confidentiality of all persons who receive the PCC's services, and that we have taken steps to assure that no similar error will occur in the future. The PCC immediately notified the VUMC Privacy Office upon discovering this error. The VUMC Privacy Office began an investigation into the matter and is taking steps to mitigate any potential negative impact.

As part of this effort, unopened copies of the message have already been deleted from the recipient email inboxes. If you received and opened the email message from the PCC, to help further mitigate any negative effect of the error we ask that you not forward or further disseminate the message and take steps to permanently delete the message from your mailbox. Specifically, please delete the original email from the PCC and any additional copies from your inbox and/or your sent mail box as applicable. Once those messages are deleted, please permanently delete the messages from your trash box.

You will receive additional notification from the VUMC Privacy Office once it has completed its investigation of this matter. In the meantime, do not hesitate to contact the VUMC Privacy Office directly at 615-936-3594 if you have any questions or concerns about this incident.

We hope that you will speak with your provider to work through any concerns you may have about this error. Should you wish to see a provider outside PCC for that purpose, VUMC will reimburse you for the costs of that care which you may incur through the end of this calendar year.

Again, we hope you will accept our sincere apologies for our error.

Second Follow-up Email

Dear Student,

I'm writing to share information supplementing the message sent last Thursday, November 10, following the error which affected the distribution of the VUMC Psychological & Counseling Center's Student Satisfaction Survey.

We believe it is extremely important for students who were receiving care to continue their course of therapy, but recognize that some students may not wish to continue in care at PCC following last week's email error. To help assure that, we had advised in our earlier message that if you wish to see a provider outside PCC rather than continuing at PCC, VUMC would reimburse you for your costs of care incurred through the end of the calendar year.

We are also aware that we are nearing the end of the semester, and that final exams, year-end assignments, and the rapidly approaching holiday season may make it difficult for anyone who wishes to seek care outside the PCC to do so effectively. To help assure you can continue in care despite the demands of this very busy time, I wanted to let you know that VUMC is extending its previous offer and will reimburse you for care received from a non-PCC provider through the end of spring semester 2017 final exams, should you no longer wish to continue in care at PCC.

If you wish to be referred to a non-PCC provider, please contact Sandy Bledsoe, VUMC's Vice President, Risk Management, at (615) 936-0660 (Email: Sandy.Bledsoe@vanderbilt.edu). Sandy will be happy to work with you to help find an appropriate provider who is available to see you as soon as possible.

Again, we apologize sincerely for our error and encourage you to continue in care, whether at the PCC or with another provider.

Best regards,

D. Catherine Fuchs, MD



Social Media poll #5

U.S. Department of Health and Human Services, Office for Civil Rights Breach Portal: Notice to the Secretary of HHS Breach of Unsecured Protected Health Information



Breaches Affecting 500 or More Individuals

As required by section 13402(e)(4) of the HITECH Act, the Secretary must post a list of breaches of unsecured protected health information affecting 500 or more individuals. These breaches are now posted in a new, more accessible format that allows users to search and sort the posted breaches. Additionally, this new format includes brief summaries of the breach cases that OCR has investigated and closed, as well as the names of private practice providers who have reported breaches of unsecured protected health information to the Secretary. The following breaches have been reported to the Secretary:

	Name of Covered Entity	State	Covered Entity Type	Individuals Affected	Breach Submission Date	Type of Breach	Location of Breached Information
	Bryan Myers, MD PC, Ashley DeWitt, DO PC, Michael Nobles, MD PC	TN	Healthcare Provider	13150	12/30/2016	Hacking/IT Incident	Network Server
	Vanderbilt University Medical Center	TN	Healthcare Provider	3247	02/24/2017	Unauthorized Access/Disclosure	Electronic Medical Record
	Memphis VA Medical Center	TN	Healthcare Provider	687	03/01/2017	Unauthorized Access/Disclosure	Paper/Films
	American Home Patient	TN	Healthcare Provider	13861	03/06/2017	Theft	Desktop Computer
	Primary Care Specialists	TN	Healthcare Provider	65000	03/09/2017	Hacking/IT Incident	Network Server



Social Media poll #6

Overview



- Conflicting values between clients and therapists
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- Social media world
- **Electronic issues impacting therapists**



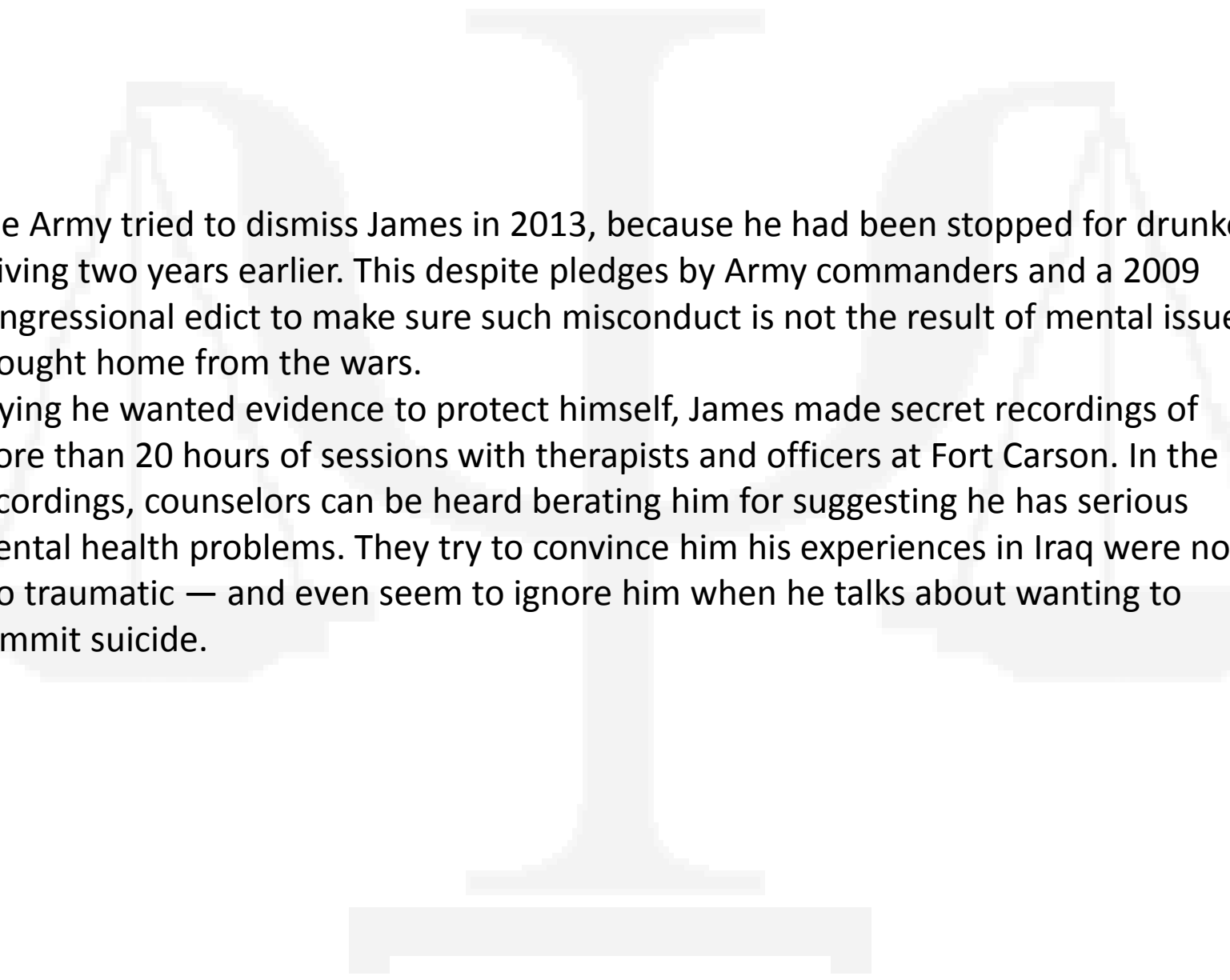
Electronic issues poll #1

NPR 10/28/15

Missed Treatment: Soldiers With Mental Health Issues Dismissed For 'Misconduct'

Staff Sgt. Eric James, an Army sniper who served two tours in Iraq, paused before he walked into a psychiatrist's office at Fort Carson, Colo. It was April 3, 2014. James clicked record on his smartphone, and then tucked the phone and his car keys inside his cap as he walked through the door to the chair by the therapist's desk.

As he sat there sharing his fears and telling the therapist he'd been thinking about suicide — all while secretly recording the entire session — James was inadvertently helping to bring a problem within the Army to light: As it tries to deal with thousands of soldiers who misbehave after returning from Iraq and Afghanistan and then being diagnosed with mental health disorders and traumatic brain injuries, the military sometimes moves to kick them out of the service rather than provide the treatment they need.



The Army tried to dismiss James in 2013, because he had been stopped for drunken driving two years earlier. This despite pledges by Army commanders and a 2009 congressional edict to make sure such misconduct is not the result of mental issues brought home from the wars.

Saying he wanted evidence to protect himself, James made secret recordings of more than 20 hours of sessions with therapists and officers at Fort Carson. In the recordings, counselors can be heard berating him for suggesting he has serious mental health problems. They try to convince him his experiences in Iraq were not too traumatic — and even seem to ignore him when he talks about wanting to commit suicide.



Electronic issues poll #2



Electronic issues poll #3



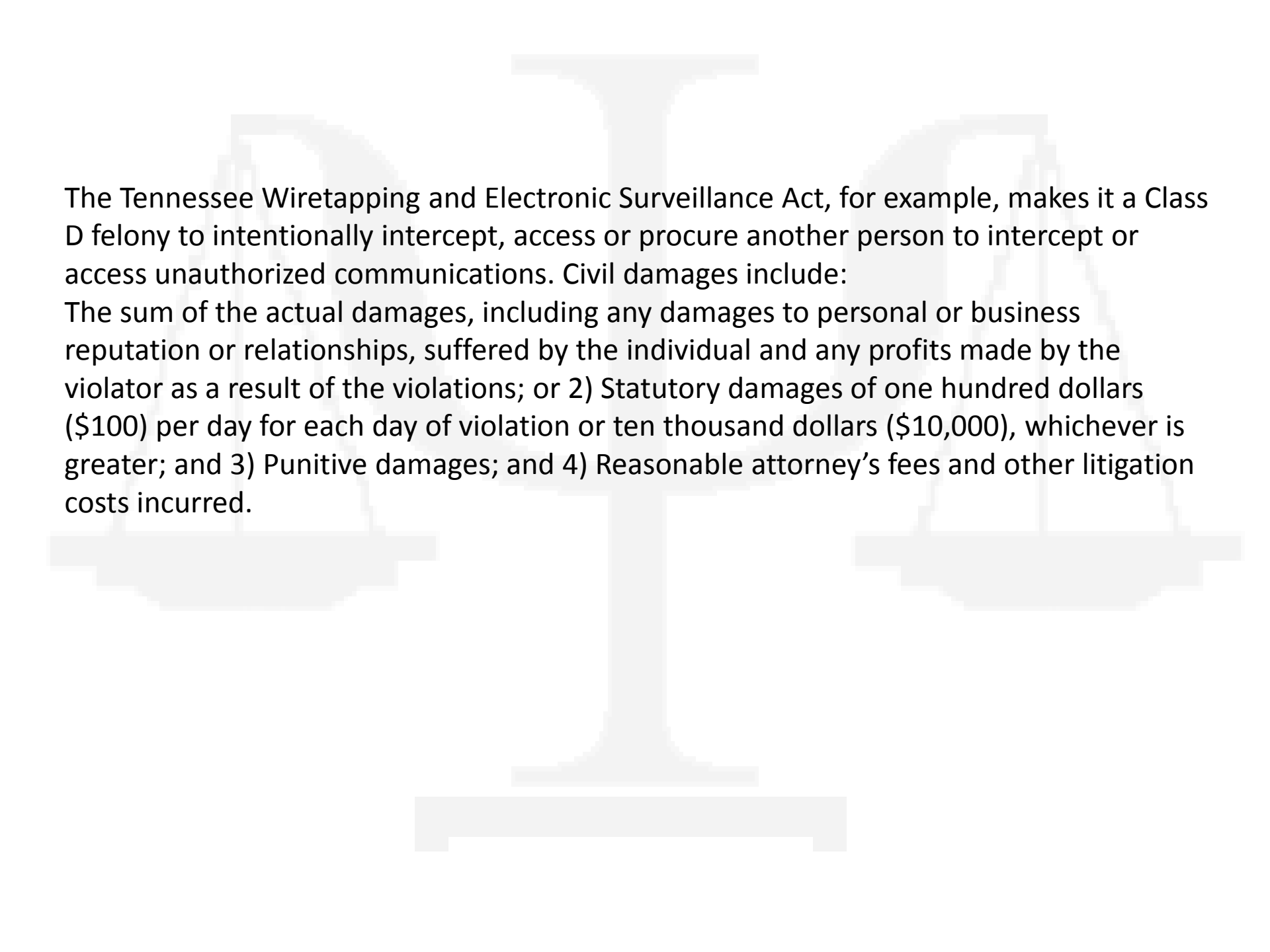
Electronic issues poll #4

TCA §39-13-601

(a)(1) Except as otherwise specifically provided in §§ 39-13-601 – 39-13-603 . . . a person commits an offense who:

(A) Intentionally intercepts, endeavors to intercept, or procures any other person to intercept or endeavor to intercept, any wire, oral, or electronic communication; (C) Intentionally discloses, or endeavors to disclose, to any other person the contents of any wire, oral or electronic communication, knowing or having reason to know that the information was obtained through the interception of a wire, oral, or electronic communication in violation of this subsection (2) A violation of subdivision (a)(1) shall be punished as provided in § 39-13-602 and shall be subject to suit as provided in § 39-13-603.

(5) *It is lawful* under §§ 39-13-601 – 39-13-603 and title 40, chapter 6, part 3 *for a person not acting under color of law to intercept a wire, oral, or electronic communication*, where the person is a party to the communication or *where one of the parties to the communication has given prior consent to the interception*, unless the communication is intercepted for the purpose of committing any criminal or tortious act in violation of the constitution or laws of the state of Tennessee.



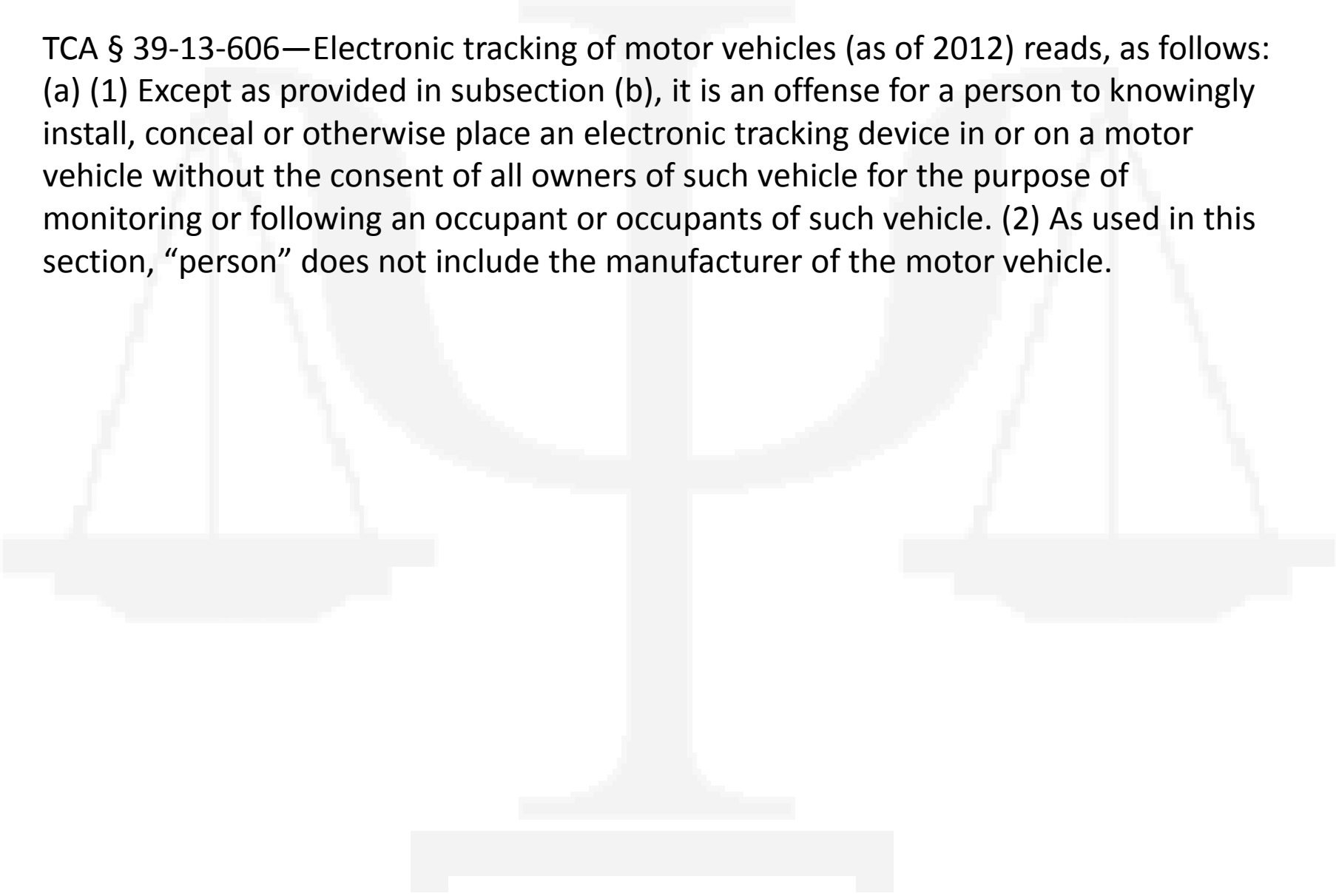
The Tennessee Wiretapping and Electronic Surveillance Act, for example, makes it a Class D felony to intentionally intercept, access or procure another person to intercept or access unauthorized communications. Civil damages include:

The sum of the actual damages, including any damages to personal or business reputation or relationships, suffered by the individual and any profits made by the violator as a result of the violations; or 2) Statutory damages of one hundred dollars (\$100) per day for each day of violation or ten thousand dollars (\$10,000), whichever is greater; and 3) Punitive damages; and 4) Reasonable attorney's fees and other litigation costs incurred.

Klumb v. Goan, 2-09-Cv-115 (E.D. Tenn.; July 19, 2012) Federal District Case Plaintiff Roy Klumb brought this action alleging defendant Crystal Goan, formerly is wife, violated the federal Wiretap Act, 18 U.S.C. 2510 et seq., and the Tennessee Wiretap Act, Tenn. Code Ann. 39-13-601et seq., **by installing spyware on his computers without his consent to intercept his incoming email**. A bench trial was held and, having heard all the evidence, the Court concludes that defendant Crystal Goan did violate the two wiretap statutes, that the plaintiff is entitled to the statutory damages of \$10,000, and that defendant's violation of the wiretap acts was part of a larger scheme to gain advantage of the plaintiff during their divorce thereby warranting **punitive damages in the amount of \$10,000. The plaintiff is also entitled to reasonable attorney's fees and costs.** An appropriate judgment shall be entered.

Robinson v. Fulliton, Court of Appeals May 2002

This is a wiretapping case. A husband and a wife were experiencing marital difficulties. During that time, the husband tape recorded a telephone conversation between his wife and her brother without the knowledge of either. When the brother found out, he filed a lawsuit against the husband, his brother-in-law, seeking damages under the civil damages provision of the Tennessee wiretapping statutes, Tenn. Code Ann. § 39-13-603. The trial court, sitting without a jury, held that the husband was liable to his brother-in-law, and awarded nominal compensatory damages, litigation expenses, and attorney's fees. The husband and the brother-in-law both appeal that decision, arguing that the damage award was erroneous. We reverse the trial court's award of damages, finding that the statute requires that, when a violation is established, **the trial court must award either the actual damages or the statutory minimum penalty of \$10,000, whichever is greater.**



TCA § 39-13-606—Electronic tracking of motor vehicles (as of 2012) reads, as follows:
(a) (1) Except as provided in subsection (b), it is an offense for a person to knowingly install, conceal or otherwise place an electronic tracking device in or on a motor vehicle without the consent of all owners of such vehicle for the purpose of monitoring or following an occupant or occupants of such vehicle. (2) As used in this section, “person” does not include the manufacturer of the motor vehicle.



AAMFT 2015 Code of Ethics

STANDARD VI

TECHNOLOGY-ASSISTED PROFESSIONAL SERVICES

- 6.1 Technology Assisted Services.**
- 6.2 Consent to Treat or Supervise.**
- 6.3 Confidentiality and Professional Responsibilities.**
- 6.4 Technology and Documentation.**
- 6.5 Location of Services and Practice.**
- 6.6 Training and Use of Current Technology.**



6.5 Location of Services and Practice.

Therapists and supervisors follow all applicable laws regarding location of practice and services, and do not use technologically-assisted means for practicing outside of their allowed jurisdictions.



QUESTIONS?



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11:06 AM CONF2017



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