

PLAINTIFF

VS. NO. 60CV-25-1064

DEFENDANTS

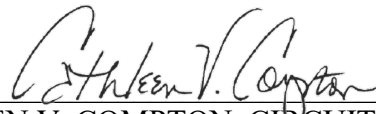
ORDER ON POST TRIAL BRIEFS

On the 24th day of August, 2026, the Court reviewed the parties' Post Trial Briefs after having heard arguments on those Briefs on August 3, 2026. Based on the testimony at trial, the briefs, arguments of counsel, and other things and matters before the Court, the Court finds:

1. Jurisdiction and venue are proper in this Court.
2. The jury returned its verdicts at the close of trial. This Court is being asked to determine all damages to which the State is entitled.
3. The jury received individual verdict forms for each of the three parties remaining after the Court directed a verdict in favor of Janet Shaw. On the verdicts returned for Charles Shaw and Matthew Shaw, the jury ruled in favor of the Shaw brothers. On the verdict dedicated to the corporate entity, the jury checked one box out of six: unconscionability. Not surprisingly, the parties disagree on the number and the dollar amount of penalties and restitution the Court should award the State against Capital City Tree Service, LLC ("Capital City"). They also disagree on what injunctive relief, if any, should be implemented.
4. Both parties cite *Baptist Health v. Murphy*, 2010 Ark. 358, 373 S.W. 3d 269 (2010), in support of their arguments. The main guidance given by that case is this: our Supreme Court ruled that unconscionability is that which offends one's sense of decency, reasonableness, or justice. Using that guidance, this Court can determine that the jury found Capital City committed an act or acts offensive to an individual's sense of decency, reasonableness, or justice. The legal glitch is that the jury did not give the Court any guidance as to which act or acts those were.
5. What we do know is that the jury did not find that Capital City, Charles Shaw, or Matthew Shaw did any of the following:
 - a. target the elderly;
 - b. gouge prices;

- c. commit unfair business practices;
 - d. make false representations; or
 - e. use bait and switch tactics.
- 6. This returns us to the one known: the jury believed that Capital City did something unconscionable. The State believes that means the Court should fix damages at full restitution for each consumer (\$143,045.34); maximum \$10,000 penalties for each violation of the ADTPA (\$10,000 per 47 violations, totaling \$470,000); fees and costs; and injunctive relief. The Defendant Capital Tree argues that the full amount to be recovered is \$1.00.
- 7. One of the reasons the State argues for its requested amounts is based on the Defendant's ability to pay. The Court cannot fully determine Capital City's ability to pay. The State introduced a document indicative of Capital City's gross income for a fixed period. It did not introduce any notion of what its net income was during that same period. All taxpayers understand that gross earnings and net earnings are two entirely different things. No accountant or other expert testified as to the net amount Capital City had earned. The Court cannot speculate.
- 8. The defense argues that the award should be \$1.00, which is also speculative. The defense also argues that the State's position is that no matter the fact that unconscionability was the only box checked on the jury's verdict against Capital City, each and every thing the jury did **not** find should be included under the umbrella of unconscionability.
- 9. The Court finds as follows:
 - a. judgment is granted in favor of the State and against Capital Tree for the sum of four hundred seventy thousand dollars (\$470,000.00) based on the number of violations and the maximum penalty allowed by the statute.
 - b. Capital City shall change its consumer contracts to reflect the following: its current contractual language shall state that Capital City will "submit the claim to the consumer's homeowner's insurance company" rather than indicating that it will "work with insurance" and notifying the consumer that Capital City has no control over how the insurance company will treat the claim. The contract must have clear language notifying the consumer that any expenses not paid by insurance will be billed directly to the client and the client will be responsible for paying that amount. "Work with insurance" gave many consumers the notion that Capital City would force the carrier to pay the claim. Capital City has no such power, and should not indicate that it does; and
 - c. each party shall bear its own attorneys fees.
- 10. This is a final and appealable order.

IT IS SO ORDERED THIS 24TH DAY OF AUGUST, 2026.

A handwritten signature in black ink, reading "Cathleen V. Compton". The signature is written in a cursive, flowing style with a large initial "C".

CATHLEEN V. COMPTON, CIRCUIT JUDGE