

IN THE CIRCUIT COURT FOR RUTHERFORD COUNTY, TENNESSEE
AT MURFREESBORO

MEIXIANG YANG, BEIXIA MA,)
YANGE CAO, CHUNHUA WANG)
DICKEY, YANGE GONG, CUIHUA)
WANG, YAN LI YANG, SHAN XU,)
YINGCHUN SUN, GUOFENG CHEN,)
ISMAIL ARSLAN, LI HUI ZHANG,)
HUIFANG YAN, LI HAN, XIUJIAN)
ZHAO, QINGYUAN XIONG,)
YANHUI WANG, SHI WEI ZHANG,)
CHUNLING PANG, SHI LIN ZHAO,)
QIAN DONG, WANG ZHI GONG,)
EVON TSAI, YAN LI, DINGYIN)
SONG, and YANG CONGXIA ZHAO)

Plaintiffs,

vs.

INTERNATIONAL INSTITUTE OF)
REFLEXOLOGY, INC., GAIL)
BYERS, and DWIGHT BYERS)

Defendants.

FILED
JAN 02 2019
2:18 PM
MELISSA HANFEL
DEPUTY CLERK

NO. 75268
JURY DEMAND

COMPLAINT

Plaintiffs, listed in the caption above, for their cause of action against Defendants, listed in the caption above, state as follows:

I. THE PARTIES

1. Plaintiff Meixiang Yang is an individual and was, at all times relevant hereto, a citizen and resident of the state of Tennessee. Plaintiff Yang does not speak or understand English.

2. Plaintiff Beixia Ma is an individual and was, at all times relevant hereto, a citizen and resident of the state of Tennessee. Plaintiff Ma does not speak or understand English.

3. Plaintiff Yange Cao is an individual and was, at all times relevant hereto, a citizen and resident of the state of Tennessee. Plaintiff Cao does not speak or understand English.
4. Plaintiff Chunhua Wang Dickey is an individual and was, at all times relevant hereto, a citizen and resident of the state of Tennessee. Plaintiff Dickey does not speak or understand English.
5. Plaintiff Yange Gong is an individual and was, at all times relevant hereto, a citizen and resident of the state of Tennessee. Plaintiff Gong does not speak or understand English.
6. Plaintiff Cuihua Wang is an individual and was, at all times relevant hereto, a citizen and resident of the state of Tennessee. Plaintiff Wang does not speak or understand English.
7. Plaintiff Yan Li Yang is an individual and was, at all times relevant hereto, a citizen and resident of the state of Tennessee. Plaintiff Yan Yang does not speak or understand English.
8. Plaintiff Shan Xu is an individual and was, at all times relevant hereto, a citizen and resident of the state of Tennessee. Plaintiff Xu does not speak or understand English.
9. Plaintiff Yingchun Sun is an individual and was, at all times relevant hereto, a citizen and resident of the state of Tennessee. Plaintiff Sun does not speak or understand English.
10. Plaintiff Guofeng Chen is an individual and was, at all times relevant hereto, a citizen and resident of the state of Tennessee. Plaintiff Chen does not speak or understand English.
11. Plaintiff Ismail Arslan is an individual and was, at all times relevant hereto, a citizen and resident of the state of Tennessee. Plaintiff Arslan does not speak or understand English.
12. Plaintiff Li Hui Zhang is an individual and was, at all times relevant hereto, a citizen and resident of the state of Tennessee. Plaintiff Zhang does not speak or understand English.
13. Plaintiff Huifang Yan is an individual and was, at all times relevant hereto, a citizen and resident of the state of Tennessee. Plaintiff Yan does not speak or understand English.

14. Plaintiff Li Han is an individual and was, at all times relevant hereto, a citizen and resident of the state of Tennessee. Plaintiff Han does not speak or understand English.
15. Plaintiff Xiujian Zhao is an individual and was, at all times relevant hereto, a citizen and resident of the state of Tennessee. Plaintiff Zhao does not speak or understand English.
16. Plaintiff Qingyuan Xiong is an individual and was, at all times relevant hereto, a citizen and resident of the state of Tennessee. Plaintiff Xiong does not speak or understand English.
17. Plaintiff Yanhui Wang is an individual and was, at all times relevant hereto, a citizen and resident of the state of Tennessee. Plaintiff Yanhui Wang does not speak or understand English.
18. Plaintiff Shi Wei Zhang is an individual and was, at all times relevant hereto, a citizen and resident of the state of Tennessee. Plaintiff Shi Zhang does not speak or understand English.
19. Plaintiff Chunling Pang is an individual and was, at all times relevant hereto, a citizen and resident of the state of Tennessee. Plaintiff Pang does not speak or understand English.
20. Plaintiff Shi Lin Zhao is an individual and was, at all times relevant hereto, a citizen and resident of the state of Tennessee. Plaintiff Shi Zhao does not speak or understand English.
21. Plaintiff Qian Dong is an individual and was, at all times relevant hereto, a citizen and resident of the state of Tennessee. Plaintiff Dong does not speak or understand English.
22. Plaintiff Wang Zhi Gong is an individual and was, at all times relevant hereto, a citizen and resident of the state of Tennessee. Plaintiff Wang Gong does not speak or understand English.
23. Plaintiff Evon Tsai is an individual and was, at all times relevant hereto, a citizen and resident of the state of Tennessee. Plaintiff Tsai does not speak or understand English.
24. Plaintiff Yan Li is an individual and was, at all times relevant hereto, a citizen and resident of the state of Tennessee. Plaintiff Li does not speak or understand English.

25. Plaintiff Dingyin Song is an individual and was, at all times relevant hereto, a citizen and resident of the state of Tennessee. Plaintiff Song does not speak or understand English.

26. Plaintiff Yang Congxia Zhao is an individual and was, at all times relevant hereto, a citizen and resident of the state of Tennessee. Plaintiff Yang Zhao does not speak or understand English.

27. Defendant International Institute of Reflexology, Inc. (“IIR”) is a corporation chartered under the laws of the state of Florida. At all times relevant hereto, Defendant IIR maintained a physical presence and conducted business in Murfreesboro, Rutherford County, Tennessee. Defendant IIR may be served with process through its registered agent, Gail Byers, at 2689 York Street North, St. Petersburg, Florida 33710.

28. Defendant Gail Byers is an individual and was, at all times relevant hereto, a citizen and resident of St. Petersburg, Pinellas County, Florida. At all times relevant hereto, Ms. Byers conducted business in Murfreesboro, Rutherford County, Tennessee and travelled to Murfreesboro, Rutherford County, Tennessee to conduct business in person. Ms. Byers is a principal and owner of IIR. Ms. Byers may be served with process at 2689 York Street North, St. Petersburg, Florida 33710.

29. Defendant Dwight Byers is an individual and was, at all times relevant hereto, a citizen and resident of St. Petersburg, Pinellas County, Florida. At all times relevant hereto, Mr. Byers conducted business in Murfreesboro, Rutherford County, Tennessee and travelled to Murfreesboro, Rutherford County, Tennessee to conduct business in person. Mr. Byers is a principal and owner of IIR. Mr. Byers may be served with process at 2689 York Street North, St. Petersburg, Florida 33710.

30. Jie He Prater (“Prater”) is an individual and was, at all times relevant hereto, a citizen and resident of Murfreesboro, Rutherford County, Tennessee.

II. JURISDICTION AND VENUE

31. The International Institute of Reflexology, Inc. conducted continuous and systematic business in the State of Tennessee, and it is through that business that Plaintiffs were harmed.

32. Defendants Gail Byers and Dwight Byers conducted continuous and systematic business in the State of Tennessee, and it is through that business that Plaintiffs were harmed.

33. Defendants IIR, Gail Byers, and Dwight Byers, through physical presence as well as their other actions as set forth herein, have subjected themselves to jurisdiction of Courts in the State of Tennessee.

34. The malfeasance complained of herein took place in Murfreesboro, Rutherford County, Tennessee.

35. Jurisdiction and venue are appropriate with this court.

III. FACTUAL BACKGROUND

36. All matters complained of herein took place after January 15, 2018. Plaintiffs first learned of the tortious conduct of Defendants on April 11, 2018.

37. Defendants, through Prater, drafted and sent an email to numerous people in the Asian American community representing that she was associated with a school that offered a course and certification in reflexology. The email stated, among other things, that if a person took the reflexology course and passed the certification exam, then that person would be able to become licensed and/or certified to practice reflexology in all fifty states of The United States.

38. Defendants, in addition to the aforementioned email, similarly advertised the reflexology course on WeChat, a popular social networking platform in the Asian American community.

39. Prater was associated with IIR, Gail Byers, and Dwight Byers. All acts of Prater were approved and/or adopted by IIR, Gail Byers, and Dwight Byers.

40. The above-referenced email solicitation induced Plaintiffs to sign up for and take the advertised reflexology course.

41. Plaintiffs paid for and took the IIR reflexology course.

42. The reflexology course cost each Plaintiff two thousand and seven hundred dollars (\$2,700.00).

43. The reflexology course was conducted at the IIR place of business: AMC Training Center, located at 1630 Church Street, Murfreesboro, Rutherford County, Tennessee. The course was taught in Chinese and English. If English were used, a translator provided a Chinese translation.

44. The reflexology course was taught by James Pedersen, an employee of IIR, Gail Byers, and Dwight Byers.

45. On several occasions throughout the reflexology course, Gail and/or Dwight Byers would assist with the teaching of the course or instruction of Plaintiffs enrolled in the course. Gail and Dwight Byers would appear in person in Murfreesboro, Tennessee to teach the class.

46. Prater was an employee and/or agent of IIR. Alternatively, IIR, Gail Byers, and Dwight Byers, through their actions, made it appear that Prater was an agent of IIR. IIR is vicariously liable for the actions of Gail Byers, Dwight Byers, and Prater as the employer of those persons. Alternatively, IIR is vicariously liable for the actions of Gail Byers, Dwight Byers, and Prater under the theory of ostensible or apparent agency.

47. The Plaintiffs had to purchase other textbooks and learning materials at a cost of around sixty-five dollars (\$65.00).

48. All of the materials (e.g., textbooks, tests, videos), used in the reflexology course, indicated that they were created, produced, or endorsed by the IIR.

49. IIR, through Prater and other representatives, represented that if a person completed the reflexology course, that person could become licensed in Tennessee.

50. In fact, IIR, through Prater and other representatives, represented that the certification obtained through completing its reflexology course could be used in all fifty (50) states.

51. Upon successful completion of the reflexology course, Plaintiffs were awarded a certificate signed by Dwight Byers, as the president of IIR and James Pedersen, as an instructor with IIR. An example of this certificate is attached hereto as Exhibit A.

52. After completing the reflexology course, Plaintiffs applied for licensure with the relevant Tennessee Department of Health regulatory board: the Tennessee Reflexology Registry. They were denied licensure because, according to the board, “[the IIR] is not an approved educational institution for initial licensure education in any state.” An example of this notification is attached hereto as Exhibit B.

53. IIR, Dwight Byers, and Gail Byers, either directly or through their agents or employees’ actions, represented that Plaintiffs would be able to achieve licensure in the state of Tennessee upon completion of the reflexology course. This representation induced Plaintiffs to enroll in the course and to pay money for the course. This representation was false.

54. Gail Byers admitted to the husband of one of the Plaintiffs that she knew IIR was not an approved school for licensure to practice reflexology in the state of Tennessee.

55. IIR, Dwight Byers, and Gail Byers all benefitted financially from the funds Plaintiffs paid to take the reflexology course.

COUNT 1: VIOLATION OF TENNESSEE CONSUMER PROTECTION ACT

56. Plaintiffs incorporate paragraphs 1-55 of this Complaint by reference as if fully set forth herein.

57. The representation that Plaintiffs could become licensed to practice reflexology in and/or practice reflexology in Tennessee following completion of the reflexology course was a deceptive business practice undertaken for the purpose of inducing Plaintiffs to enroll in the course and to pay money to Defendants.

58. Defendants, by engaging in deceptive business practices and other acts repugnant to Tennessee public policy, violated the Tennessee Consumer Protection Act of 1977 (“TCPA”) codified at T.C.A. § 47-18-101, *et seq.*

59. Defendants committed the following acts in violation of specific provisions of the TCPA:

- a. Causing likelihood of confusion or of misunderstanding as to the source, sponsorship, approval or certification of good or services. T.C.A. § 47-18-104(b)(2).
- b. Causing likelihood of confusion or misunderstanding as to affiliation, connection or association with, or certification by, another. T.C.A. § 47-18-104(b)(3).
- c. Representing that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits or qualities that they do not have or that a person has a sponsorship approval, status, affiliation or connection that such person does not have. T.C.A. § 47-18-104(b)(5).

60. Plaintiffs have suffered the loss of money and valuable time due to Defendants’ deceptive business practices, and therefore may bring an action under the TCPA pursuant to T.C.A. § 47-18-109(a)(1).

61. This Court may hear this case because the deceptive business practices occurred in Murfreesboro, Rutherford County, Tennessee. T.C.A. § 47-109(a)(2).

62. Because the Defendants' unfair and deceptive business practices were conducted in a knowing and willful manner, Plaintiffs are entitled to an award of treble damages pursuant to T.C.A. §47-109(a)(3).

63. Plaintiffs are entitled to an award of their attorney fees.

64. Plaintiffs plead for relief under the TCPA without precluding any other remedy provided by law as allowed by T.C.A. § 47-112.

COUNT 2: FRAUD AND INTENTIONAL MISREPRESENTATION

65. Plaintiffs incorporate paragraphs 1-64 of this Complaint by reference as if fully set forth herein.

66. Defendants have suppressed and concealed certain material facts that they had a duty to disclose to Plaintiffs. Further, Defendants made a representation that if Plaintiffs paid for and completed the reflexology course, then Plaintiffs would be eligible for licensure to practice reflexology in Tennessee.

67. The above-referenced representations made by Defendants were false.

68. Defendants knew the representations were false when they made them.

69. In the alternative, Defendants made the representations recklessly without knowing whether they were true or false.

70. Defendants knew and concealed from Plaintiffs the following material facts:

- a. That the State of Tennessee Department of Health has established a board to regulate the practice of reflexology: The Reflexology Registry;
- b. That in order to practice reflexology in Tennessee, a candidate must complete training at an approved reflexology program;

- c. That the IIR was not one of the programs approved by the Reflexology Registry;
and
- d. That Plaintiffs would not be eligible for licensure in the State of Tennessee, upon completion of the IIR reflexology program, due to the above-stated facts.

71. Defendants had a duty to disclose these material facts as a result of their fiduciary relationship with Plaintiffs. In addition, Defendants had an independent duty to disclose these material facts because they undertook to make other affirmative representations about these matters and were thus duty bound to make full and fair disclosure of all material facts. This duty is even more pronounced due to the fact that IIR and its agents knew that Plaintiffs do not speak or understand English.

72. Defendants suppressed, concealed, and made intentional misrepresentations of material facts with the intent to induce reliance and to defraud Plaintiffs.

73. At all relevant times, Plaintiffs were unaware of the material facts that were suppressed, concealed, or intentionally misrepresented by Defendants. If Plaintiffs had been aware of the aforementioned material facts, they would not have taken Defendants' course.

74. As a proximate result of Defendants' intentional and fraudulent suppression and concealment of the above-described material facts, Plaintiffs have suffered, and continue to suffer damages, in an amount currently unascertained, but according to proof at trial.

75. The aforementioned conduct of Defendants constitutes fraud, suppression and/or concealment of material facts known to them, with the intent on the part of Defendants of inducing reliance and thereby depriving Plaintiffs of property and/or legal rights or otherwise causing injury, and was despicable conduct that subjected Plaintiffs' to cruel and unjust hardship in conscious disregard of the Plaintiffs' rights, so as to justify an award of exemplary and punitive damages.

COUNT 3: MISREPRESENTATION BY CONCEALMENT

76. Plaintiffs incorporate paragraphs 1-75 of this Complaint by reference as if fully set forth herein.

77. The Defendants concealed or suppressed the facts known to them: that IIR was not an approved institution for reflexology instruction in Tennessee, and that upon completion of the IIR reflexology course Plaintiffs would be unable to achieve licensure.

78. The Defendants were under a duty to disclose these facts to the Plaintiffs.

79. The Defendants intentionally concealed or suppressed these facts with the intent to deceive the Plaintiffs.

80. The Plaintiffs were not aware and would have acted differently if the Plaintiffs knew of the concealed or suppressed facts.

81. As a result of the Defendants' concealment or suppression of material facts, the Plaintiffs sustained damages.

COUNT 4: NONDISCLOSURE OF KNOWN FACTS

82. Plaintiffs incorporate paragraphs 1-81 of this Complaint by reference as if fully set forth herein.

83. Defendants failed to disclose material facts known to them to Plaintiffs.

84. Defendants had a duty to disclose such facts because they were in a fiduciary or confidential relationship with Plaintiffs.

85. A fiduciary or confidential relationship existed because Plaintiffs are afflicted with a language barrier and, accordingly, relied on Defendants whom they reasonably trusted and had confidence in the integrity thereof.

86. Even in the absence of a fiduciary or confidential relationship, a duty to disclose known facts arose here because the Defendants knew material facts which they also knew Plaintiffs did not know, nor could they readily discover, due to the aforementioned language barrier.

COUNT 5: NEGLIGENT MISREPRESENTATION

87. Plaintiffs incorporate paragraphs 1-86 of this Complaint by reference as if fully set forth herein.

88. The Defendants were acting in the course and scope of their business when the underlying events relevant hereto occurred.

89. The Defendants negligently supplied false information to Plaintiffs.

90. The Defendants intended for the information to be used by the Plaintiffs in furtherance of Defendants' business transaction.

91. The Plaintiffs justifiably relied upon the false information.

92. As a result, Plaintiffs suffered financial loss, and other harm to be demonstrated at trial.

COUNT 6: CIVIL CONSPIRACY

93. Plaintiffs incorporate paragraphs 1-92 of this Complaint by reference as if fully set forth herein.

94. Defendants International Institute of Reflexology, Inc., Gail Byers, and Dwight Byers intentionally and knowingly entered into an agreement with others, and otherwise conspired to induce Plaintiffs to take the reflexology course, even though they knew Plaintiffs could not become licensed to practice reflexology in the state of Tennessee through completion of the course.

95. Defendants committed the acts and things herein alleged pursuant to, and in furtherance of, the conspiracy and above-alleged agreement.

96. Defendants furthered the conspiracy by conducting the reflexology course and taking Plaintiffs' money.

97. As a direct and proximate result of the wrongful acts herein alleged, Plaintiffs have suffered damages.

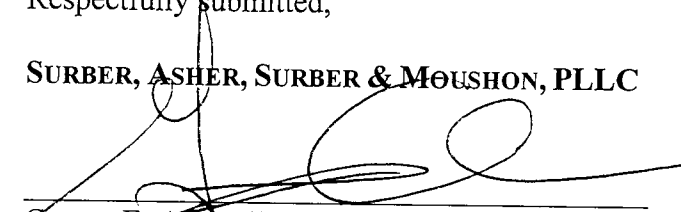
IV. PRAYER FOR RELIEF

WHEREFORE, having set forth their cause of action against the Defendants, Plaintiffs pray for judgment against the Defendants and request that the Court grant to them the following relief:

1. That service of process issue against the Defendants named in this matter;
2. That all costs of this matter be taxed to the Defendants;
3. That Plaintiffs be awarded One Million Dollars (\$1,000,000) in compensatory damages;
4. That Plaintiffs be awarded treble damages in the amount of Three Million Dollars (\$3,000,000);
5. That Plaintiffs be awarded pre-judgment interest and post-judgment interest at the maximum rate allowed by law;
6. That Plaintiffs be awarded Three Million Dollars (\$3,000,000) in punitive damages;
7. That any award be made available to Plaintiffs in accord with the doctrine of joint and several liability;
8. That Plaintiffs be awarded attorney's fees and all discretionary and other costs of litigation.
9. That a jury be empaneled to try all issues so triable; and
10. That Plaintiffs be granted such further and general relief that the Court deems proper.

Respectfully submitted,

SURBER, ASHER, SURBER & MOUSHON, PLLC

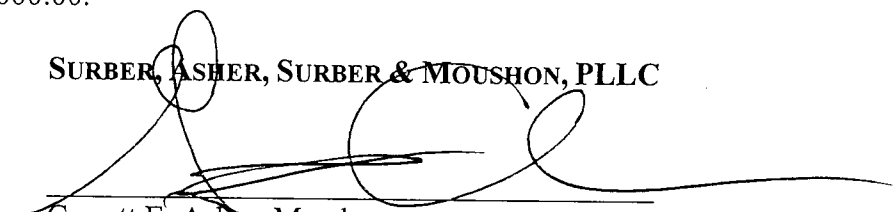


Garrett E. Asher (015977)
James W. Fuller IV (036801)
Plaza I, Suite 480
220 Athens Way
Nashville, Tennessee 37228
(615) 997-1908
(615) 953-1473 (facsimile)
gasher@tennlawfirm.com
wfuller@tennlawfirm.com

COST BOND

We are surety for costs not to exceed \$1,000.00.

SURBER, ASHER, SURBER & MOUSHON, PLLC



Garrett E. Asher, Member