

IN THE COURT OF APPEALS OF TENNESSEE
AT KNOXVILLE

FRANDA WEBB, ET AL. v. FIRST TENNESSEE BROKERAGE, ET AL.

**Circuit Court for Knox County
No. 2-548-09**

No. E2012-00934-COA-R3-CV - Filed June 18, 2013

ORDER

The appellants in this case have filed a petition to rehear pursuant to Rule 39 of the Tennessee Rules of Appellate Procedure. They assert that they have not been heard on certain issues that go to the underlying merits of the case and are being denied due process. The appellants rely on a recent Tennessee Supreme Court ruling in *Glassman, Edwards, Wyatt, Tuttle & Cox, P.C. v. Wade*, W2012-00321-SC-S10-CV, 2013 WL 1800212 (Tenn. Apr. 30, 2013).¹

Rehearing may be granted on a petition of a party in this court's discretion. Tenn. R. App. P. 39(a). Courts consider the following reasons in determining whether to grant rehearing: "(1) the court's opinion incorrectly states the material facts established by the evidence and set forth in the record; (2) the court's opinion is in conflict with a statute, prior decision, or other principle of law; (3) the court's opinion overlooks or misapprehends a material fact or proposition of law; (4) the court's opinion relies upon matters of fact or law upon which the parties have not been heard and that are open to reasonable dispute." *Id.*

We have carefully reviewed the petition and have determined that it contains a meritorious assertion. Accordingly, we grant the petition. We agree that the opinion first filed in this matter should be withdrawn. It is hereby withdrawn and replaced with the opinion filed along with this order. Costs are taxed to the appellees, Franda Webb and D.P., a minor, by & through his legal custodian, Franda Webb.

¹We, of course, did not have the benefit of *Glassman* before our opinion was issued in this case.

JOHN W. McCLARTY, JUDGE

D. MICHAEL SWINEY, JUDGE

THOMAS R. FRIERSON, II, JUDGE