

MODIFY, REVERSE, RENDER, AFFIRM, REMAND; Opinion Filed August 28, 2014.



**In The
Court of Appeals
Fifth District of Texas at Dallas**

No. 05-12-01607-CV

BRUCE B. MCLEOD III, Appellant

V.

ALFRED GYR, Appellee

**On Appeal from the County Court at Law No. 2
Dallas County, Texas
Trial Court Cause No. CC-11-02708-B**

SUPPLEMENTAL OPINION

Before Justices Lang-Miers, Myers, and Lewis
Opinion by Justice Lang-Miers

In our opinion dated August 7, 2014, we suggested a remittitur of \$750 of the actual damages and \$1,500 of the treble damages awarded to appellee Alfred Gyr on his claim under the Texas Deceptive Trade Practices Act. We stated that if the remittiturs were filed by appellee within fifteen days of the date of the opinion, we would modify the trial court's judgment with respect to the damages awarded under the DTPA claim and affirm as modified.

On August 16, 2014, appellee timely filed his consent to the suggestion of remittiturs and asked the court to modify the trial court's judgment consistent with our opinion and judgment in this matter. Accordingly, we vacate our judgment, but not our opinion, dated August 7, 2014, and modify the trial court's judgment with respect to damages awarded under the DTPA to reflect the remittitur of \$2,250. The trial court's judgment is modified to award appellee \$23,000

in actual damages and \$46,000 in treble damages on his DTPA claim. *See* TEX. R. APP. P. 46.3.

As modified, we affirm the trial court's judgment with regard to the damages awarded under the DTPA. *See id.* This Court's opinion of August 7, 2014, otherwise remains in effect.

/Elizabeth Lang-Miers/
ELIZABETH LANG-MIERS
JUSTICE

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**Court of Appeals
Fifth District of Texas at Dallas**

JUDGMENT

BRUCE B. MCLEOD III, Appellant

No. 05-12-01607-CV V.

ALFRED GYR, Appellee

On Appeal from the County Court at Law
No. 2, Dallas County, Texas

Trial Court Cause No. CC-11-02708-B.

Opinion delivered by Justice Lang-Miers.

Justices Myers and Lewis participating.

We vacate our judgment dated August 7, 2014. In accordance with this Court's opinion of August 7, 2014, and supplemental opinion of August 26, 2014, we **MODIFY** the trial court's judgment to award appellee Alfred Gyr actual damages in the amount of \$23,000 and treble damages in the amount of \$46,000 on his claim under the Texas Deceptive Trade Practices Act. We **REVERSE** the trial court's award of damages in the amount of \$1,200 on appellee Alfred Gyr's breach of fiduciary duty claim and **RENDER** judgment that appellee Alfred Gyr take nothing by his claim for breach of fiduciary duty. We **AFFIRM** the trial court's judgment awarding appellee Alfred Gyr \$28,210 in attorney's fees for trial. We **REVERSE** the trial court's judgment awarding appellee Alfred Gyr conditional attorney's fees for appeal and **REMAND** for further proceedings consistent with this opinion. We **REVERSE** the trial court's judgment awarding appellee Alfred Gyr prejudgment interest and **REMAND** for recalculation.

It is **ORDERED** that each party bear its own costs of this appeal.

Judgment entered this 28th day of August, 2014.