

In the Circuit Court of Forrest County, Mississippi

**Carter Carroll and
Kim Bradley**

Plaintiffs

vs.

CI14-0212

**Johnny L. Dupree, in his official capacity as
Mayor of the City of Hattiesburg**

Defendant

Motion to Compel a More Definite Response from Plaintiffs Regarding My Motion to Intervene

I, Joseph Rawson, come now and, file this, my Motion to Compel a More Definite Response from Plaintiffs Regarding My Motion to Intervene, in accordance with Rule 12(e) of the Mississippi Rules of Civil Procedure, as follows, to wit:

Introduction

1. I, Joseph Rawson, have carefully read the response from Mr. Carroll and Mr. Bradley.

Admission and Acknowledgement

2. I admit, with regard to the first paragraph of the Response that I seek to intervene in this action to address alleged injustices. I also reply that I presume that these allegations of injustices are completely contained within my prospective Motion to Dismiss, attached as Exhibit “A” to my Motion to Intervene.

3. I acknowledge that the Plaintiffs admit, in the first paragraph of their Response, that they acknowledge that I seek to intervene on behalf of the Defendant.

4. I acknowledge that the Plaintiffs understand, with regard to the second paragraph of the Response, that a person seeking the relief of mandamus have an elevated interest “in excess of that

of the general public” in order to have standing.

5. I acknowledge that in the third paragraph of the Response, the Plaintiffs state what is required to seek relief in the form of a “writ” of mandamus.

6. I deny that I am seeking relief in the form of mandamus.

7. I acknowledge and admit, that as described in the fourth paragraph of the Response, I am not “authorized to bring the suit”. I also acknowledge that I have been cited in said paragraph as actually making this clear, since I am clearly not bring any suit to this Court.

8. Within the first four paragraphs of the Response, the Plaintiffs have both acknowledged that I seek to intervene on behalf of the Defendant, and also that I have no standing as a Plaintiff in this action.

9. In my Motion to Intervene, I clearly state that I have no standing to seek the relief of mandamus with regard to the subject matter before the Court, while also, with claim that I am not subject to an order of mandamus, seek to intervene on behalf of the Defendant, since a challenge to subject matter jurisdiction is a defense.

10. My Motion to Intervene is presented upon the Court with regard to the intervention requirements prescribed in Rule 24 of the Mississippi Rules of Civil Procedure. The Plaintiffs have not responded to my motion with any regard to intervention requirements, yet have only disputed my ability to stand before the Court as a Plaintiff in this Cause for an action of mandamus.

11. In the fifth paragraph of the Response, the Plaintiffs state that they “would further show that, because [I] lack[...] standing,” my “pleading is frivolous.” With regard to the foregoing paragraphs in the response, the only reason that I could possibly lack standing is if I were to be seeking relief, as a plaintiff in this matter, in the form of mandamus. Without regard to the foregoing paragraphs in the response, I say upon this Court that no other reasoning has been given by the Plaintiffs.

A Footnote Concerning Frivolity

12. With further regard to the fifth paragraph of the Response, with respect to the “pleading [being] frivolous,” since the Plaintiffs are not addressing my ability to intervene on behalf of the Defendant, there is only the Plaintiffs' footnote to describe, or clarify, the meaning of “frivolous.” Without exploration into how the Court already perceives frivolity, the aforementioned footnote contains four separate and distinct issues to, by the Plaintiffs' response, be addressed by this Court.

13. The very first issue is that the “Plaintiffs categorically deny [my] allegations contained in the Petition.”¹ How can the Plaintiffs show the Court in their response that I seek to intervene on behalf of the Defendant without my allegation? There is also the very important allegation that I, Joseph Rawson, am a qualified elector, taxpayer, and businessman of the City of Hattiesburg, that the Plaintiffs are apparently “categorically deny[ing].” I would show unto the Court that this denial can only be either vague or false, exclusively.

14. The second issue concerns the claim that my “allegations are [...] without a basis in the facts and law.”² With similar regard to the aforementioned argument concerning the Plaintiffs' denial of these allegations, this statement can only be seen as either being exclusively vague or false.

15. The third issue concerns the Plaintiffs' claim that my “allegations [...] are of a kind and character that should be stricken from the court files.”³ Without regard to the veracity of this claim, a very noticeable absence of clarification impresses itself to be construed as vague, both on the face of the claim, as well as how it must be applied to my allegations. It must also be noted that both the claims mentioned in the second and third issues are conjoined by the Plaintiffs, such that both claims must be simultaneously true, logically implying that a determination of falsehood on one of the two aforementioned claims would construct a falsehood in the entire conjunctive statement.

16. The fourth and final issue is the instruction to review *Dethlefs v. Beau Maison Dev. Corp.*, 511 So.2d 112,118,⁴ presumably to either substantiate or clarify the Plaintiffs' statement in the

1 Footnote 1 of Plaintiffs' Response to My Motion to Intervene

2 Id.

3 Id.

4 Id.

aforementioned footnote. Upon review of the aforementioned matter previously before the Supreme Court, I could find no holding of that court concerning the first two issues I present with regard to said footnote. With regard to the third issue concerning said footnote, the aforesaid Opinion mentions where the lower court takes the appellant “to task for the language contained in [the appellant's] pleading,”⁵ however this does not shed any light upon why my allegations would be considered of a “kind and character that should be stricken from the court files.”⁶ Moreover, the Dethlefs Court describes where the chancellor of the lower court “got exercised”⁷ with regard to the closing argument presented by the appellant in the lower court, yet the Court laments that “unfortunately, [the closing argument] is not transcribed in the record,”⁸ which again sheds no more light upon the kind and character of my allegations.

The Alleged Requirement to Respond Coupled with an Implied Obligation of the Court

17. In the fifth paragraph of the Response the Plaintiffs claim that they “should be awarded their fees and costs for being required to respond” to my motion, however they cite no authority providing where the Response is mandatory. Also, the Plaintiffs contend that they should be awarded,⁹ in accordance with Rule 11(b) of the Mississippi Rules of Civil Procedure, and also Chapter 55 of Title 11 of the Mississippi Code of 1972, their fees and costs.

18. Rule 11(b) MRCP provides for sanctions to be awarded against a party who files a motion that is frivolous, which can be described as a motion that is “made without hope of success.”¹⁰ The Plaintiffs further indicate that there is no hope of success, “because [I] lack[...] standing,”¹¹ yet have not addressed any lack of standing in accordance with an intervention by right, pursuant to Rule 24 MRCP. Moreover, the Plaintiffs neglected to provide any averment substantiating where my

5 Dethlefs v. Beau Maison Dev. Corp., 511 So.2d 112,118

6 Footnote 1 of Plaintiffs' Response to My Motion to Intervene

7 Dethlefs v. Beau Maison Dev. Corp., 511 So.2d 112,118

8 Id.

9 The Plaintiffs present this claim as a presumptive obligation of the Court, yet neglect to expressly include this request in the prayer for relief.

10 In re Spencer (Miss. 2008) 985 So.2d 330

11 Response, 5

Motion to Intervene is doomed to fail.

Conclusion

19. With special regard to the fifth paragraph and accompanying footnote in the Response, the Plaintiffs “would show” or “would further show” unto the Court, evidence or averments not contained in said Response. When the Plaintiffs express a desire to show upon the Court information that is not contained in their Response, coupled with vague or unsubstantiated averments, I can properly conclude that the foundation has been laid for a hearing by ambush or surprise.

20. Wherefore, it is with these premises most carefully considered that I, Joseph Rawson, seek and pray for the Court to Compel the Plaintiffs to Draft a More Definite Response to My Motion to Intervene, with particular regard to the fifth paragraph and accompanying footnote in the Plaintiffs' Response.

Respectfully submitted, this the 2nd day of July, 2015.

Sincerely,

Joseph Rawson

Joseph Rawson
612 North Main Street
Hattiesburg, MS 39401

Certificate of Service

I, Joseph Rawson, hereby certify that a copy of the above and foregoing document on the following, by delivering same to their office addresses through either hand delivery, or first class United States mail, postage prepaid, on this the 2nd day of July, 2015:

Honorable L. Breland Hilburn
Senior Status Judge
Post Office Box 2114
Jackson, MS 39225-2114

Robert D. Gholson
Katherine B. Sumrall
Post Office Box 1289
Laurel, MS 39441-1289

Charles Lawrence
1105 Edwards Steet
Hattiesburg, MS 39401

Shawn O'Hara
Post Office Box 15275
Hattiesburg, MS 39404

Elisha Jackson
Post Office Box 1542
Hattiesburg, MS 39403

So certified, this the 2nd day of July, 2015.

Joseph Rawson