

**IN THE CIRCUIT COURT OF                      COUNTY, MISSISSIPPI**

**PLAINTIFF**

**VS.**

**CAUSE NO.**

**and                      , Individually,  
DEFENDANT**

**RESPONSE IN OPPOSITION TO DEFENDANTS'  
MOTION TO TRANSFER CAUSE**

Plaintiff,                      ("                      ") files this response in opposition to the Defendants' previously filed Motion to Transfer this cause to Chancery Court, and in opposition to the Motion states as follows:

1.        On                      ,                      ,                      filed his/her Complaint initiating this action against the Defendants seeking to recover damages for breach of contract, breach of good faith and fair dealing, tortious interference with contract, fraud, conversion, violation of the Mississippi Uniform Trade Secrets Act, and dissolution of the business relationship previously existing between                      and Defendants.

2.        The Complaint filed on behalf of                      sought compensatory as well as punitive damages against the Defendants.

3.        Defendants answered the Complaint, and filed a Counterclaim for breach of contract, breach of good faith and fair dealing, tortious interference, fraud, conversion, an accounting, violation of Mississippi Uniform Trade Secrets Act, and dissolution of the previously existing business relationship between Defendants and                      .

4.        Defendants have now requested that this cause be transferred to Chancery Court on the basis that the matters involving the alleged partnership previously existing between                      and the Defendants are subject to exclusive jurisdiction in Chancery Court.

5.        The Mississippi Supreme Court has made it clear that the Circuit Court is the only Court of general jurisdiction and that "the Circuit Courts of this state have original jurisdiction of suits filed therein for damages based upon actions contractu and ex delicto." See *City of Starkville v. Thompson*, 243 So. 2d 54, 55 (Miss. 1971), see also *Barlow V. Weathersby*, 597 So. 2d 1288, 1293 (Miss. 1992).

6.        It is clear that the majority of the claims set forth in the original Complaint and in the Counterclaim are claims for damages based in contract and tort. Moreover, each party has sought against the other punitive and exemplary damages, which are more appropriately addressed in Circuit Court.

7. Pursuant to established Mississippi law, any claims sounding in equity are clearly subject to the pendent jurisdiction of the Circuit Court, which appropriately has exercised jurisdiction over all of the other claims raised in the Complaint and Counterclaim.

8. This Court has recently considered the nearly identical issue in a partnership dispute in the case of David B. Greer v. Hartman, Harper, Stokes, Knight, P.A.. et al., Rankin County Civil Cause No. 94-141, wherein the Court overruled the Defendants' Motion to transfer the cause to Chancery Court, holding that the Circuit Court had jurisdiction over the partnership dispute as well as any claims at law. A true and correct of the Court's Order dated \_\_\_\_\_, is attached hereto as Exhibit " \_\_\_\_\_".