

IN THE CHANCERY COURT OF COUNTY, MISSISSIPPI

VS.

CASE NO.

, , , AND

DEFENDANTS' AMENDED ANSWER, COUNTERCLAIM AND CROSS-CLAIM

COMES NOW, the Defendants, and husband/wife , by and through counsel and files this their Amended Answer and would show unto the Court the following:

MOTION TO DISMISS

That the Court fails to have proper jurisdiction of the parties and of the subject matter or in the alternative moves the Court to transfer this cause to the Circuit Court of County or the Circuit Court of the Judicial District of County, Mississippi.

MOTION TO DISMISS

That the Complaint as filed herein fails to state a claim upon which relief can be granted as against these Defendants.

Your Defendants, and , who, without waiving any of their rights as set out above, hereby make this their Answer and says:

1.

In answering paragraph numbered one (1), Sections (G) and (H), your Defendants, and deny that they are proper parties to this action, and admit that they are adult resident citizens of County, Mississippi.

2.

In answering paragraph numbered one (2), your Defendants, and deny that this Court has jurisdiction of the parties and of the subject matter, in that both Defendants are residents of County.

3.

Defendants, and deny any knowledge of Mr./Ms. 's action on or about the day of , 20 .

4.

Your Defendants, , deny that they entered into any such account agreement, in that they never signed any such agreement.

5.

Defendants and deny that they are jointly and severally bound by the Account Agreements because they never signed any such agreement.

6.

Defendants and have no knowledge or facts upon which to base an answer to the paragraph numbered six (6) and therefore denies same.

7.

Defendants, and have no knowledge or facts upon which to base an answer to the paragraph numbered seven (7) and therefore denies same.

8.

Defendants, and have no knowledge or facts upon which to base an answer to the paragraph numbered eight (8) and therefore denies same.

9.

Defendants, and have no knowledge or facts upon which to base an answer to the paragraph numbered nine (9) and therefore denies same.

10.

Defendants, and have no knowledge or facts upon which to base an answer to the paragraph numbered ten (10) and therefore denies same.

11.

Defendants, and have no knowledge or facts upon which to base an answer to the paragraph numbered eleven (11) and therefore denies same.

12.

Defendants, and have no knowledge or facts upon which to base an answer to the paragraph numbered twelve (12) and therefore denies same.

13.

Defendants, and have no knowledge or facts upon which to base an answer to the paragraph numbered thirteen (13) and therefore denies same.

14.

Defendants, and deny the allegations as set forth in paragraph numbered fourteen (14)

15.

Defendants, and deny that a declaration of rights and liabilities should be made as to determine Defendants' liability since they are not proper parties to this action.

16.

Defendants, have no knowledge or facts upon which to base an answer to the paragraph numbered sixteen (16) and therefore denies same.

17.

Defendants, deny the allegations as set forth in the paragraph numbered seventeen (17).

18.

Defendants, and admit the allegations as set forth in the paragraph numbered eighteen (18).

19.

Defendants, and deny that an injunction be issued against them because they have no knowledge of any funds held by or any other institution.

20.

Defendants, and deny the allegations as set forth in the paragraph numbered twenty (20).

In answering the "WHEREFORE, PREMISES CONSIDERED" section of the Complaint Defendants, and deny that the Plaintiff is entitled to any such relief as against Defendants, and .

DEFENDANTS' COUNTERCLAIM

COMES NOW, the Defendants/Counter-Plaintiffs, and , by and through counsel and having answered Plaintiffs complaint, hereby files this their counterclaim pursuant to Rule 13(a) as against the Plaintiff/Counter-Defendant, and would show unto the Court the following facts and matters to-wit:

1.

That your Defendants/Counter-Plaintiffs, and are each bona fide adult resident citizens of County, Mississippi.

2.

That your Plaintiff/Counter-Defendant, is a state chartered banking institution having its principle banking office at in , Mississippi and having a primary operations center in County, Mississippi.

3.

That at all times mentioned your Defendants and were, have been, and now are law abiding citizens, known to neighbors, constituents and acquaintances to have behaved and conducted themselves in a manner conducive to good citizenship.

4.

That the Plaintiff/Counter-Defendant, , has negligently caused the Defendants, and unjustly to suffer financial hardship and embarrassment. Only , 20 , Plaintiff/Counter- Defendant negligently entered into an agreement with to procure an Account Agreement, by means of falsifying signatures and social security numbers which were at no time sworn to by a notary or witnesses by any agents of the Bank.

5.

That at all times mentioned herein, Counter-Defendant, had in its employment , which was an agent servant and employee of and conducting business for and in the furtherance of ' s business.

6.

That , an agent for , entered into an agreement with to open an account, with Co-Defendants and to be jointly liable for the debts and overdraft of said account, with . knew, or should have known, he/she did not have the proper authorization from Counter-Plaintiffs to open such an account but still entered into the agreement. That ' s acts were grossly negligent in that he/she should have verified the signatures of Counter-Plaintiff on the agreement. That his/her failure to witness the signatures or verify their authenticity constitutes gross negligent conduct which put the Defendants, and , in this case at risk for financial responsibilities for which they had absolutely no knowledge. At no time did either of your Defendants, or sign any documentation relative of this matter.

7.

That because of the Counter-Defendant's grossly negligent acts, Defendants/Counter-Plaintiffs have both suffered extreme mental anguish, and have and will be forced to expend sizeable sums of money, in defending this action, and have been injured in credit standing, emotional distress, damage to his/her business and cost in defending this action in the amount of \$.

8.

That in committing the acts, Plaintiff/Counter-Defendant's acts constituted gross negligence or willful and wanton conduct towards the Defendants, and and said Defendants/Counter-Plaintiffs are therefore entitled to recover from Plaintiff/Counter-Defendants punitive damages in the sum of \$.

WHEREFORE, PREMISES CONSIDERED, Defendants/Counter-Plaintiffs pray that upon a proper hearing of this Counterclaim the Court will grant and a judgment of and from the Plaintiff/Counter-Defendant, in the amount of \$ as actual damages together with \$ as punitive damages together with attorneys fees and all costs herein.

DEFENDANTS CROSS-CLAIM

1.

That your Defendants/Cross-Plaintiffs, and are each bona fide adult resident citizens of County, Mississippi.

2.

That your Cross-Defendant, is a bona fide adult resident citizen of County, Mississippi who may be served with process at , , MS . That the Defendant, is a foreign corporation having its principle place of office at , , , subject to the jurisdiction of this Court by personal service on its agent, , at said office.

3.

That on or about the day of , , the Cross-Defendant, entered into an agreement with the to open an account at their bank. That pursuant to his/her written agreement he/she forged with the knowledge and consent of , the signatures of at least two of his/her co-signers, and , pursuant to his/her Account Agreement. That in addition to forging their signatures, likewise forged the Social Security numbers of each Defendant/Cross Plaintiff all with the knowledge and consent of .

4.

That because of the Cross-Defendant, 's willful and intentional acts, Defendants/Cross-Plaintiffs, have both suffered extreme mental anguish, and have and will be forced to expend sizeable sums of money, in defending themselves, and have been injured in credit and circumstances, in the sum of \$.

5.

Plaintiff charges , at all times mentioned herein, was the agent, servant, and employee of Cross-Defendant, and acting in the furtherance of the business of and was authorized to act for and in place of and therefore responsible for the acts of as was within the scope of his/her employment. That in addition, because of the business relationship carried on by and between and with , it gave the general public, and more particularly, your

Plaintiffs herein, that [redacted] had the apparent authority to act for and on behalf of [redacted] and therefore Plaintiff relied upon Cross-Defendant [redacted] agent and being one in the same as [redacted]. Plaintiff was of the opinion and so thought that he/she was doing business directly with [redacted].

6.

Plaintiff would show unto the Court they had placed in trust with [redacted] through its agent, monies which were to be used for investments and profits. These monies were placed in trust with [redacted] in [redacted], [redacted] and all correspondence, ledgers, checks, and other related matters in doing business with [redacted] and [redacted] came directly from [redacted], [redacted].

7.

Plaintiff would further show unto the Court that Cross-Defendant, [redacted], forged the signatures of Plaintiff to a change of address form which was furnished to him/her by Defendant, [redacted]. The instrument was received by Defendant, [redacted] from Cross-Defendant [redacted], and at all times acting as agent for [redacted] and same was filed with the office of [redacted]. The instrument reflected that all correspondence, ledgers, checks, any and all other written documents changed to be mailed from the Plaintiff's home address to that of [redacted]'s home address or that of the office of [redacted] in [redacted], Mississippi. As a result of this forged instrument, [redacted] of [redacted], began sending all correspondence together with checks and other material either to [redacted]'s home address or to the office address in [redacted], Mississippi. Defendant [redacted] received numerous checks written directly to the Plaintiff as a result of the forged instrument, then forged the checks and deposited the funds to a [redacted] account known as [redacted].

8.

Further, your Plaintiff charges that at all times mentioned herein Defendant [redacted] knew or should have known in their dealings with [redacted] in their dealings with him/her as their agent, that the signatures on all the instruments and checks were not that of the Plaintiff, and as a result failed to carry out their duties and responsibilities owed to the Plaintiff herein, and were negligent in their acts toward the Plaintiff.

9.

That because of the acts of both Cross-Defendants, [redacted] and [redacted], and [redacted] are both jointly and severally liable to the Defendant/Cross-Plaintiffs herein in the amount of \$ [redacted] as actual damages and because of the willful, wanton and gross negligent acts on part of both Cross-Defendants your Defendant/Cross-Plaintiffs are entitled to \$ [redacted] as punitive damages together with all costs, including attorneys fees and any other related expense in having to prosecute this action.

WHEREFORE, PREMISES CONSIDERED, your Defendants/Cross-Plaintiffs [redacted] and [redacted] pray that the Court enter a judgment of and from the Cross-Defendants, [redacted] and [redacted] in the amount of \$ [redacted] as actual damages, together with \$ [redacted] as punitive damages together with attorneys fees and all costs of this action.

Respectfully submitted,

Attorney for

Of counsel:

Telephone:
MSB #
Attorney for