

IN THE COUNTY COURT OF COUNTY, MISSISSIPPI

PLAINTIFF

VS.

CAUSE NO.

DEFENDANT

COMPLAINT

COMES NOW , by and through its attorneys of record, and files this its Complaint against Defendant, and in support thereof, would show unto the Court the following:

1.

Plaintiff, (hereinafter " ") is an adult resident citizen of County, Mississippi.

2.

Defendant, (hereinafter " ") is a corporation which has a manufacturing facility in , County, Mississippi and which may be served by delivering a copy of the complaint and summons to its registered agent, at , Mississippi.

3.

On or about . 20 , acquired substantially all of the assets of (hereinafter " ") pursuant to an Asset Purchase Agreement (hereinafter "Asset Purchase"). In connection with said Asset Purchase, retained various employees and agreed to assume liability for the accrued vacation due employees, including . As of , , had accrued and unpaid vacation equal to weeks and liability for said vacation pay was assumed by .

4.

In connection with the Asset Purchase, _____, on or about _____, 20____, entered into an employment agreement with _____ (hereinafter "Employment Agreement"). Pursuant to Section 4 of the Employment Agreement, _____ was "entitled to participate in such employee benefit plans and additional benefits as [were] from time to time generally available to other Company executives". One such benefit to which _____ was entitled was vacation pay. Further, the Employment Agreement provides in Section 6(d) that in the event of termination without cause _____ is entitled to all amounts due under any compensation or benefit plan of the Company. This includes amounts due for accrued but unused vacation pay. A copy of the Employment Agreement is attached hereto as Exhibit " _____ " and incorporated herein by reference.

5.

By letter dated _____, _____ (hereinafter "Termination Letter"), _____ notified that his/her position had been eliminated and that his/her employment was terminated without cause, effective immediately. A copy of the Termination Letter is attached hereto as Exhibit " _____ " and incorporated herein by reference.

6.

On _____, _____, _____ also provided _____ with a letter (hereinafter "Benefit Letter") outlining _____'s position regarding the post-termination salary and benefits to which _____ was entitled. The Benefit Letter expressly provided that _____ was entitled to receive (_____) weeks of vacation pay and that said amount would be included on _____ final check. A copy of the Benefit Letter is attached hereto as Exhibit " _____ " and incorporated herein by reference.

7.

By letter dated _____, 20____, counsel for _____ notified _____ that _____ had _____ weeks of accrued and unused vacation time as of _____, 20____, rather than the _____ weeks stated in the Benefits Letter, and made demand that _____ be paid \$ _____, the equivalent of _____ weeks of vacation. A calculation of the _____ weeks of accrued and unused

vacation due is set forth on Exhibit " " and incorporated herein by reference.

8.

Further, on or about , 20 , provided with affidavits from the President of until , 20 and , the controller of until , 20 , verifying that 's calculation of accrued and unused vacation was correct. A copy of said Affidavits are attached hereto as Exhibits " " and " ", respectively. Again, made demand on that he be paid for the weeks of unpaid vacation to which he/she is entitled.

9.

received his/her final check from on or about , 20 but said check did not include any amount whatsoever for accrued and unused vacation time. Despite repeated demands and supporting documentation from , did not pay the weeks of vacation to which is entitled nor the weeks of vacation, which admitted in the Benefit Letter that is due.

COUNT ONE

Breach of Contract

10.

The allegations contained in paragraph 1 through 9 set forth above are realleged in full and incorporated herein by reference.

11.

The principal sum currently due from for accrued and unpaid vacation time is \$. has made demand on for the payment of said sum, but has failed or refused to pay same. Said refusal by to pay the sum due constitutes a breach of the Employment Agreement entered into by and between the parties. is presently indebted to for the principal sum of \$ as a result of said breach.

12.

Because of the failure or refusal of _____ to pay the amount due _____ and the resulting breach of contract, _____ has been forced to hire counsel to file suit against _____ to recover the amount due. _____ has agreed to pay said counsel a reasonable fee for the services rendered in collection of the amount due.

13.

_____ is entitled to recover from _____ based on breach of contract accrued and unpaid vacation time in the principal amount of \$ _____ plus pre-judgment and post judgment interest, all attorneys fees, costs of court and other expenses incurred by _____ in connection with this action.

COUNT TWO

Punitive Damages

14.

The allegations contained in paragraphs 1 through 9 set forth above are realleged in full and incorporated herein by reference.

15.

The actions of _____ in breaching the Employment Agreement were done knowingly, willfully and intentionally, or with reckless disregard for the rights of _____, evidencing bad faith on the part of _____ and entitling _____ to punitive damages. _____ sues for punitive damages in the amount of \$ _____ in order to punish _____ for its actions and to deter such activities by it in the future.

WHEREFORE, PREMISES CONSIDERED, Plaintiff, _____, prays that Summons issue against the Defendant, _____, _____, Inc., that Defendant be cited to appear and answer herein, and that on final hearing hereof, Plaintiff have a judgment entered against the Defendant in the amount of \$ _____ in actual damages and \$ _____ in punitive damages, plus pre-judgment and

post judgment interest, reasonable attorneys fees and all costs of court incurred herein.

AND, Plaintiff prays for such other special and general relief to which it may be entitled.

RESPECTFULLY SUBMITTED, this the day of , 20 .

BY: _____

ATTORNEY FOR PLAINTIFF