IN THE CIRCUIT COURT OF

COUNTY, MISSISSIPPI

And PLAINTIFFS

VS.

## **CIVIL ACTION NO.**

## DEFENDANT

## PLAINTIFFS' RESPONSE TO DEFENDANT'S MOTION REQUESTING A RULE OF COURT, INCLUDING PLAINTIFFS' MOTION FOR RELIEF

Come now plaintiffs and wife, , and responding to the Motion of Defendant Requesting a Rule of Court, relating to the constitutional right against self-incrimination, and in support of their own Motion for Relief included herein, respectfully say:

1. Under the authority of State V. Myers, 146 So. 2d 334 (Miss. 1962), it appears that the subject Motion probably should be sustained in part.

2. Defendant should be required to answer immediately the following discovery items, since the answers thereto could not possibly incriminate the defendant:

(A) Interrogatories:

Interrogatory Nos. l, 2, 3, 4, 6, 9, 11, 14, 15, 21, 22, and 26.

(B) Requests for Production of Documents:

Request Nos. 1, 2, 4, 5, 6, and 7.

(C) Request for Admissions:

Request Nos. 1, 2, 3, 4, 5, and 6.

3. Defendant relies on the case of State v. Myers, which states on p. 337 that "his (the defendant's) constitutional right to object to testifying does not affect the right of (the plaintiff) to proceed...by the use of other testimony." Plaintiffs in the case at bar elect to go to trial at the earliest possible time, and will be prepared to do so by the use of "other testimony," as countenanced by the Supreme Court of Mississippi in State v. Myers.

4. The defendant should not be entitled to gain an advantage based on a legal technicality which would enable him/her to unreasonably delay plaintiffs in their effort to obtain a civil judgment against defendant for the abominable acts perpetrated against them by defendant, as alleged in the complaint.

5. An early civil trial will in no way hamper the efforts of the State of Mississippi in its criminal prosecution of the defendant based on common underlying facts, and no prejudice will result to the defendant by a prompt dispensation of justice herein.

6. Plaintiffs should be granted authority to amend their complaint by interlineations so as to increase the amounts sued for as follows:

For - actual damages in the amount of \$ and punitive damages in the amount of \$ .

For - actual damages in the amount of \$ and punitive damages in the amount of \$ .

7. Defendant should be ordered to promptly produce copies of all professional liability insurance policies or any other policies of insurance either providing or which may provide coverage for the claims described in the complaint.

WHEREFORE, PREMISES CONSIDERED, plaintiffs request the Court to enter an order

(a) overruling defendant's motion requesting a rule of court as to the above specifically enumerated discovery items and requiring the defendant to answer or respond to said items immediately, and to produce within a reasonable time the insurance policies described in paragraph 7 above;

(b) setting this cause for trial at the earliest possible time that is reasonably practical and convenient; and

(c) authorizing plaintiffs to amend their complaint by interlineations so as to increase the amounts sued for consistent with the figures set forth above.

Respectfully submitted,

Attorney for

Of Counsel:

| Telephone:   |
|--------------|
| MSB #        |
| Attorney for |

## CERTIFICATE OF SERVICE

This is to certify that I, , have this day served a true and correct copy of the foregoing Plaintiffs' Response to Defendant's Motion Requesting a Rule of Court, Including

Plaintiffs' Motion for Relief to Honorable , attorney for the defendant, by electronic means, to his/her FAX number of .

This the day of , 20 .

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