

IN THE CIRCUIT COURT OF COUNTY, MISSISSIPPI

PLAINTIFF

VS.

NO.

, M.D. and , M.D. DEFENDANTS

AFFIDAVIT OF , M.D.

, M.D., being first duly sworn, on personal knowledge deposes and states as follows:

My name is . I am a co-defendant in this case. On I was arrested and charged with a fire at the building where my office was located in , Mississippi. In I was tried at , in the Circuit Court of County, for the crime of arson. That trial lasted days. The jury was unable to reach a verdict, and the judge declared a mistrial. In I was retried under the same indictment. The jury convicted me of arson.

Before, during and after both trials, the regional radio, television and press reported the allegations, the testimonies, the content of the hearings and discussions in open court, and, following the second trial, the verdict. As evidence of the extent of the pre-trial publicity and the attendant notoriety arising from these actions, and veniremen were empaneled for the second trial (twice the usual number in a criminal case).

Following the verdict in my second trial, I was sentenced by the judge. In sentencing, the judge chastised me for my "[poor] attitude." He/She stated to me that he/she did not believe my testimony. He/She said, ". Even though the first jury had voted in favor of my acquittal - , this judge told me he/she did not believe my testimony, and sentenced me to years in the penitentiary. That same judge is assigned to hear the civil action brought against me for professional liability.

In the civil action, I am a co-defendant with another doctor. For my sake, as well as that of my co-defendant, I believe that regardless of the evidence, any verdict against one of us will include the other. I believe that a verdict against my co-defendant will include a verdict against me, and vice-versa. i.e., I believe that we each will be convicted by association if .

Based on these circumstances, I have good reason to believe, and do believe, that from the undue influence of the adverse party, of the popularly elected ; prejudice existing in the public mind of this county as well as the counties of this region including all of Mississippi; and from the naturally close association of the judges in this district with the ; to try this case in the same county as the circuit clerk, or district as the judge, or region of the publicity would be highly prejudicial to my getting a fair trial. I cannot obtain a fair and impartial trial in the county, district or region where the action is pending. I believe that I would be prejudiced if my civil trial were to be heard before a judge in this district. Furthermore, I also

believe that I will not get a fair trial if my case is tried with my co-defendant. In fact, I question whether my co-defendant can obtain a fair trial if his/her case is tried with mine.

This application is made as soon as convenient after being advised of such undue influence, prejudice, and other cause, and not to delay the trial or vex or harass the adverse party.

Dated this the        day of        , 20        .

Respectfully submitted,

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Attorney for

Of Counsel:

Telephone:  
MSB #  
Attorney for

STATE OF MISSISSIPPI  
COUNTY OF

PERSONALLY came and appeared before me, the undersigned authority in and for the jurisdiction aforesaid, the within named \_\_\_\_\_, M.D., who, after being first duly sworn by me, did state on oath that the facts set forth in his/her affidavit are true and correct as therein stated.

SWORN TO AND SUBSCRIBED before me this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
NOTARY PUBLIC

My Commission Expires: