

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

**APPELLANT**

**VS.**

**CIVIL ACTION NO.**

**APPELLEE**

**SUMMARY JUDGMENT MOTION**

COMES NOW the appellant, (" ") by and through undersigned counsel, and pursuant to Rule 56 of the Mississippi Rules of Civil Procedure moves this Court to enter judgment in its favor on one or more of the following alternative grounds:

1. 's Answer filed with this Court on , is facially inadequate because, contrary to 's certification, the record filed with the Court omits most of the claimant's testimony. Since the true record is not before the Court due to 's default, the Court cannot review or affirm its award.

2. The Board of Review's decision was arbitrary and capricious. The Board of Review did not review nor could it have reviewed the complete record because the Appeals Referee erased or failed to record most of the claimant's testimony.

3. The Board of Review erroneously refused to consider affidavit and deposition testimony submitted to it by . See letter of , letter of , letter of , and letter of , copies of which are attached hereto as Exhibits " , " , " " , " and " " respectively.

4. The evidence found in the portion of the record before Court does not support the Board of Review's findings of fact opinion.

In support of its Motion, , in addition to its Memorandum submitted herewith, relies on the following:

1. Affidavit of , a copy of which is attached hereto as Exhibit " ;"

2. The written transcript of the , hearing as transcribed by and submitted to the Court, a copy of which is attached hereto as Exhibit " ;"

3. The \_\_\_\_\_, decision of the Board of Review, a copy of which is attached hereto as Exhibit " \_\_\_\_\_ ;"

4. The \_\_\_\_\_, letter of \_\_\_\_\_ to \_\_\_\_\_, with accompanying affidavit of \_\_\_\_\_, a copy of each is attached hereto as Exhibit " \_\_\_\_\_ ;"

5. The \_\_\_\_\_, letter of \_\_\_\_\_ to \_\_\_\_\_, with accompanying deposition excerpts of \_\_\_\_\_, a copy of each is attached hereto as Exhibit " \_\_\_\_\_ ;"

6. The \_\_\_\_\_, letter of \_\_\_\_\_, to \_\_\_\_\_, a copy of which is attached hereto as Exhibit " \_\_\_\_\_ ;" and

7. The \_\_\_\_\_, letter of \_\_\_\_\_, with accompanying deposition of \_\_\_\_\_, a copy of each is attached hereto as Exhibit " \_\_\_\_\_ ."

WHEREFORE, PREMISES CONSIDERED, \_\_\_\_\_ respectfully requests that this Court vacate the decision of the Board of Review of the Mississippi Security Commission and grant determination of non-chargeability to \_\_\_\_\_.

THIS the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

Respectfully submitted,

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Attorney for

Of Counsel:

Telephone:  
MSB #  
Attorney for