

IN THE CIRCUIT COURT OF COUNTY, MISSISSIPPI

APPELLANT

VS.

CIVIL ACTION NO.

APPELLEE

RESPONSE OF DEFENDANT

TO SUMMARY JUDGMENT MOTION

Comes now , by its attorney, and files this its Response to Plaintiff's Summary Judgment Motion, showing unto the Court the following:

1.

Plaintiff's motion is inappropriate in the context of an appeal such as this under Section 71-5-531, MCA, and should be ordered stricken.

2.

If not ordered stricken, the Motion is without foundation, and should be denied.

3.

Defendant, , is entitled to its reasonable expenses and attorneys fees incurred in defending against this unwarranted Summary Judgment Motion, which has no basis in law, nor reasonable cause for filing.

4.

In order to obtain a complete record for the Court to determine whether it should affirm or reverse the decision of the Board of Review, the Court should order a remand to the Board for a hearing on the merits, or in the alternative, there being no harmful error by the transcript gap, should affirm the decision of the Board, which was patently correct in concluding the employer failed to meet its burden of clear and convincing proof of claimant's misconduct. *Constr., Inc. v. Miss. Emp. Sec. Comm'n*, 549 So.2d 446, 449 (Miss. 1989).

Respectfully submitted,

Attorney for

Of Counsel:

Telephone:
MSB #
Attorney for