

IN THE SUPREME COURT OF THE STATE OF MISSISSIPPI

NO. 2006-CP-01842

RONALD HENRY PIERCE

Defendant -Appellant

Versus

ERNEST ALLAN COOK

Plaintiff -Appellee

Appeal from the Circuit Court of Rankin County

BRIEF OF APPELLANT RONALD HENRY PIERCE

RONALD HENRY PIERCE, *PRO SE*

Ronald Henry Pierce (MS Bar No. [REDACTED])
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ORAL ARGUMENT REQUESTED

IN THE SUPREME COURT OF THE STATE OF MISSISSIPPI

RONALD HENRY PIERCE

DEFENDANT/APPELLANT

vs.

NO. 2006-CP-01842

ERNEST ALLAN COOK

PLAINTIFF/APPELLEE

CERTIFICATE OF INTERESTED PERSONS

I, Ronald Henry Pierce, Appellant, appearing *pro se*, certify that the following listed entities and persons have an interest in the outcome of this case. These representations are made in order that the justices of the Supreme Court and/or judges of the Court of Appeals may evaluate potential conflicts of interest.

1. Ronald Henry Pierce, Esq.;
2. Kathleen Cook Pierce, Esq. (now the wife of Mr. Pierce);
3. Appellee Ernest Allen Cook;
4. Honorable John G. Holaday, Esq. (Jackson, Mississippi) (current attorney for Appellees); and
5. Honorable Elbert E. Haley, Jr., Esq. and Sharon Patterson Thibodeaux, Esq. (Flowood, Mississippi) (former attorneys for Appellee).


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NONE

STATEMENT OF THE ISSUES

- I. Whether the lower court erred in denying Pierce's Motion for Partial Directed Verdict?
- II. Whether the lower court erred in denying Pierce's Motion For JNOV Or, Alternatively, A New Trial?
- III. Whether the lower court erred in granting Jury Instruction No. 10 (P20)?
- IV. Whether the cumulative effect of errors in the exclusion of relevant evidence deprived Pierce of a fair trial, thus requiring reversal and remand for a new trial?

STATEMENT OF THE CASE

A. Nature of Case, Course of Proceeding and Disposition in the Court Below.

On December 23, 2002, Appellee (hereinafter referred to as "Mr. Cook") filed a civil action in the Circuit Court of Rankin County (styled "Ernest Allan Cook v. Ronald Henry Pierce", Civil Action No. 2002-386), asserting claims of a) alienation of affection, b) breach of contract, and c) intentional infliction of emotional distress [CP p12 (RE p41)]. A trial was held, and at the close of Mr. Cook's case-in-chief, Appellant (hereinafter referred to as "Pierce" or "Mr. Pierce") moved the trial court for an order granting Pierce a Partial Directed Verdict on the claims of a) breach of contract, and b) intentional infliction of emotional distress, and the trial court denied Pierce's Motion for Partial Directed Verdict [T. p668-671 (RE p29-32)]. A Judgment was entered against Pierce on July 7, 2006. [CP p203 9RE p33)]. On July 17, 2006, Pierce filed a Motion for JNOV Or, Alternatively, A New Trial, which was denied by the trial court. [CP p. (RE p.38)] Pierce filed a Notice of Appeal on May 18, 2006.

B. Statement of the Facts.

Pierce was hired as an attorney by Mr. Cook and his wife to pursue legal action against their child's doctors for medical malpractice. The underlying lawsuit was filed on behalf of the Cooks in the Circuit Court of Hinds County, Mississippi on February 13, 1998, against the Children's Medical Group, P.A. and several of the pediatricians at that clinic who treated "Ernie" Cook, the minor son of the Cooks. The lawsuit was filed to recover damages the Cooks suffered as a result of Ernie's pediatricians' misrepresentations, fraud and breach of their duties to the Cooks in the days, months and years after the vaccination at issue; specifically, it was alleged that Ernie's pediatricians affirmatively misrepresented Ernie's reaction to his second DPT vaccination and subsequent

developmental problems in a fraudulent scheme to conceal the true nature of Ernie's reaction to the vaccine until after the thirty-six (36) month statute of repose under the Vaccine Injury Compensation Act had passed. Circuit Court Judge Swan Yerger initially granted Defendants' motion for summary judgment early in the case and an appeal was taken to the Mississippi Supreme Court, which ultimately reversed Judge Yerger's grant of summary judgment. *See, Cook v. Children's' Medical Group*, 756 So.2d 734 (Miss.1999). The damages sought in the medical malpractice case related solely to those damages caused by the physician's failure to inform the Cooks of Ernie's adverse reaction.

At the time the medical malpractice suit was filed, February 13, 1998, Pierce was practicing law in Oxford, Mississippi. In September of 1999, Pierce moved back to his hometown of Pearl, Mississippi, where Pierce opened an office. In June of 2000, Mr. Cook left his wife and children to move to Hollywood, California to pursuant a career in the film industry. [T.147-148] By September 1, 2001, Mr. Cook and his wife (now married to Mr. Pierce) finally separated and ceased all martial cohabitation. [See the Child Custody and Property Settlement Agreement attached as Exhibit "A" to the Judgment of Divorce, which was introduced as Defendant's Exhibit #10]

Pierce began having romantic interest in Mrs. Pierce in August of 2000, and their affair resulted in sexual relations between Pierce and Mrs. Pierce on or about September 30, 2000. [T. p. 105:5-9 (RE p. 140), T. P.690:9-14 (RE p.145)]. By the first of October, 2000, Mr. Cook was aware of the affair and hired an attorney and a private investigator. [T. p. 148:8-15 (RE p. 150), T. p158:25 to p159:7 (RE p.160-161), T. p.174:15 to p. 175:11 (RE p.168-169)]

Pierce was terminated as Mr. Cook's attorney in December, 2000. [T. p. 715:12-13 (RE p. 149)]. Mr. Cook retained new counsel and the malpractice case was ultimately settled. [T.

p.748:26 to p. 749:8 (RE p. 263-264). Although Pierce took the case on a contingency fee basis, Pierce did not receive any legal fees from the litigation. [T. p.686-687 (RE p. 141-142)]

Mr. Cook chose not to file this action against Pierce until December 23, 2002, *well beyond any calculation of the one-year statute of limitations*. Furthermore, Mr. Cook chose not to present any expert testimony for his claim of legal malpractice against Pierce.

Summary of the Argument

Since Mr. Cook was not entitled to and did not receive a directed verdict on his claim of legal malpractice, he was required to provide expert testimony to support his claim of legal malpractice. Therefore, the verdict and the judgment entered thereon in this case on July 7, 2006, should be set aside as to Mr. Cook's claim of legal malpractice (i.e., "breach of contract") and the Court should render a judgment dismissing Mr. Cook's claim of legal malpractice.

The law is clear that the statute of limitations for intentional infliction of emotional distress is one year and it begins accruing on the date of the "alleged incident. Although it is unclear exactly what date the Mr. Cook really became aware of the affair, it was undisputed that Mr. Cook was made aware of the affair during the deposition of Mr. Pierce taken in his divorce case on January 29, 2001, and that Mrs. Pierce admitted to sexual relations with Pierce during her deposition on February 15, 2001. Mr. Cook chose not to file this action until December 23, 2002, *well beyond any calculation of the one-year statute of limitations*. Therefore, the verdict and the judgment entered thereon in this case on July 7, 2006, should be set aside as to Mr. Cook's claim of intentional infliction of emotional distress and the Court should render a judgment dismissing Mr. Cook's claim of intentional infliction of emotional distress.

At the request of Mr. Cook's counsel, the trial court gave Jury Instruction No. 10 (P20)

[CP p.169 (RE p.123)], which instructed the jury as follows:

JURY INSTRUCTION NO. 10

The Court instructs the Jury that a lawyers owes his clients duties falling into three broad categories, duty of care, duty of loyalty and duties provided by contract.

Pierce objected to the giving of this instruction (which was Plaintiff's instruction P20). Since Mr. Cook did not provide expert testimony to support his claim of legal malpractice, the giving of this instruction was, in essence, allowing the Rules of Professional Conduct to be used in a civil trial without the need of expert testimony to explain them, which the Mississippi Supreme Court has held is improper. Violation of a Rule of Professional Conduct does not give rise to a cause of action nor does it create any presumption that a legal duty has been breached. The Rules are designed to provide guidance to lawyers and to provide a structure for regulating conduct through disciplinary agencies. They are *not* designed to be a basis for civil liability. The Mississippi Supreme Court has concluded that the Rules of Professional Conduct are not to be used in the way that the trial court used them in Jury Instruction No. 10. The use of Jury Instruction No. 10 (P20) [CP p.169 (RE p.123)] allowed Mr. Cook to use the Rules of Civil Procedure inappropriately. The trial Court committed prejudicial error by instructing the jury in this manner on such a crucial, vital issue as an attorney's "duties". The instruction of the jury in this matter tainted the jury's deliberation on all counts which unduly prejudiced the jury. Therefore, the verdict and the judgment entered thereon in this case on July 7, 2006, should be set aside as to any remaining claims and Pierce should be granted a new trial.

While no trial is "perfect" and no one is entitled to a "perfect" trial, the cumulative effect of errors in the exclusion of relevant evidence deprived Pierce of a fair trial, thus requiring reversal and remand for a new trial. Although the allegation that he no longer gets to see his

children as a result of Pierce was a cornerstone of Mr. Cook's allegations, the trial court refused to allow Pierce to cross-examine Mr. Cook about the fact that he does not visit his children because he chooses to live a care-free, jobless lifestyle at his new home in Hollywood, California and chooses not to visit his children of his own volition. As a result of the trial court's rulings, Pierce was not allowed to question Mr. Cook about the state of his relationship with his children before the alienation. Because Pierce was not allowed to show the jury Mr. Cook's own actions and/or inactions with regard to parenting his children, Pierce was deprived of a fair trial and was unduly prejudiced. Pierce should have been allowed to question Mr. Cook regarding his relationship with his children. One of the primary issues in this case was whether Pierce caused Mr. Cook's relationship with his children to suffer and, as a result of the trial court's rulings, Mr. Cook was allowed to portray his relationship with his children as perfect until Pierce entered the picture and thus the jury was not given the whole story. Depriving Pierce of the ability to cross-examine Mr. Cook regarding one of the central themes of his case deprived Pierce of a fair trial.

Mr. Cook's accountant, Raleigh Cutrer testified that, as a result of the alienation of his wife, Mr. Cook had to remove a total of \$499,000 from his trust fund. In addition, however, Mr. Cutrer testified that Mr. Cook lost between \$65,000.00 to \$115,000.00 because of the loss of income because of having to withdraw these funds from his trust (using a speculative return on investment of between 10% to 15%). When Pierce's counsel attempted to discover the total values of the trusts before and after, the trial court sustained Mr. Cook's objection. The accountant "cherry-picked" a rate of return on investment of between 10% to 15%), when he later testified that the trust had very little return in 2000, a one percent loss in 2001, a fifteen percent loss in 2002, before "positive" returns in 2003 and 2004. In order to diligently cross-examine the witness as to whether his use of

return on investment of between 10% to 15%) was speculative or not, Pierce should have been entitled to discovery the total value of the trust before his involvement with Mr. Cook's wife and at the time of trial. This is the only manner in which a proper "rate of return" for the trust could be established. Not allowing this evidence left the jury to speculate as to what the proper rate of return deprived Pierce of a fair trial.

Although the trial court gave Mr. Cook what can only be described as "wide latitude" in guessing what Mr. Pierce said on a tape-recorded message that was largely inaudible, the trial court refused to allow Pierce to testify that he was referring to Mr. Cook's stepfather on the phone message that he left Mr. Cook on his birthday, and not Mr. Cook's deceased father (whom his children refer to as "Grandpa"). Furthermore, Pierce was not allowed to elaborate on the fact that he mistakenly referred to Mr. Cook's stepfather as his "father" because his stepfather had been in his life for such a long time; in fact, he used to be Mr. Cook's uncle (married to Mr. Cook's father's sister). Finally, the trial court refused to allow Pierce to ask Mr. Cook's mother, Dorothy Sprayberry, whether it would be unusual for someone to refer to her husband as Mr. Cook's father. These rulings deprived Mr. Pierce of the ability to explain his comments in a tape recorded message that was the "heart" of Mr. Cook's claim for intentional infliction of emotional distress. While this error may be small in and of itself, when combined with the other errors of the trial court the cumulative effect of these errors in the exclusion of relevant evidence deprived Pierce of a fair trial.

Finally, the trial court erred in refusing to allow Pierce to cross-examine Mr. Cook as to why he refused his wife's request to title their marital home from Mr. Cook's trust to their names as husband and wife. Pierce should have been allowed to show the jury that Mr. Cook's total and

complete financial domination of Mrs. Pierce was the reason she chose to divorce him, independent of Pierce's conduct. Again, although this error may be small in and of itself, when combined with the other errors of the trial court the cumulative effect of these errors in the exclusion of relevant evidence deprived Pierce of a fair trial.

Argument

- I. The lower court erred in denying Pierce's Motion for Partial Directed Verdict and denying Pierce's Motion for A JNOV.**
 - a. The lower court should have granted Pierce's Motion for Directed Verdict Or Pierce's Motion for a JNOV on Mr. Cook's claim of legal malpractice because Mr. Cook failed to offer any legal expert testimony to explain the professional duties owed by Pierce or to offer any opinions as to whether Pierce breached any professional duty which proximately caused damage to Mr. Cook.**

Since Mr. Cook was not entitled to and did not receive a directed verdict on his claim of legal malpractice, he was required to provide expert testimony to support his claim of legal malpractice. *Lane v. Oustalet*, 873 So.2d 92, 99 (Miss.2004); *Hickox v. Holleman*, 502 So.2d 626, 635 ((Miss.1987); *Dean v. Conn*, 419 So.2d 148, 150 (Miss.1982). Therefore, the verdict and the judgment entered thereon in this case on July 7, 2006, should be set aside as to Mr. Cook's claim of legal malpractice (i.e., "breach of contract") and the Court should render a judgment dismissing Mr. Cook's claim of legal malpractice.

- b. The lower court should have granted Pierce's Motion for Directed Verdict Or Pierce's Motion for a JNOV on Mr. Cook's claim of intentional infliction of emotional distress because this claim was barred by the statute of limitations.**

In denying Mr. Pierce's Motion for Partial Summary Judgment, the trial court ruled that this tort "is a continuing type tort. . ." [T.p.671:8-13 (RE p.32)]. But the law is clear that the statute of limitations for intentional infliction of emotional distress is one year and it begins

accruing on the date of the “alleged incident.” *Slaydon v. Hansford*, 830 So2d. 686, 688 (Miss.2002). Although it is unclear exactly what date the Mr. Cook really became aware of the affair, it was undisputed that Mr. Cook was made aware of the affair during the deposition of Mr. Pierce taken in his divorce case on January 29, 2001, and that Mrs. Pierce admitted to sexual relations with Pierce during her deposition on February 15, 2001 [Defendant’s Exhibit D-10]. However, Mr. Cook’s complaint was not filed until December 23, 2002, more than a year and ten months after the later date of February 15, 2001. Therefore, the verdict and the judgment entered thereon in this case on July 7, 2006, should be set aside as to Mr. Cook’s claim of intentional infliction of emotional distress, and the Court should render a judgment dismissing Mr .Cook’s claim of intentional infliction of emotional distress.

II. The lower court erred in granting Jury Instruction No. 10 (P20).

At the request of Mr. Cook’s counsel, the trial court gave Jury Instruction No. 10 (P20) [CP p.169 (RE p.123)], which instructed the jury as follows:

JURY INSTRUCTION NO. 10

The Court instructs the Jury that a lawyers owes his clients duties falling into three broad categories, duty of care, duty of loyalty and duties provided by contract.

Pierce objected to the giving of this instruction (which was Plaintiff’s instruction P20). [T. p865:13 (RE p.25)]

As stated above, since Mr. Cook was not entitled to and did not receive a directed verdict on this claim of legal malpractice, he was required to provide expert testimony to support his claim of legal malpractice. *Lane v. Oustalet*, 873 So.2d 92, 99 (Miss.2004); *Hickox v. Holleman*, 502 So.2d 626, 635 ((Miss.1987); *Dean v. Conn*, 419 So.2d 148, 150 (Miss.1982). The giving of this instruction was, in essence, allowing the Rules of Professional Conduct to be used in a civil

trial without the need of expert testimony to explain them, which the Mississippi Supreme Court has held is improper. Violation of a Rule of Professional Conduct does not give rise to a cause of action nor does it create any presumption that a legal duty has been breached. The Rules are designed to provide guidance to lawyers and to provide a structure for regulating conduct through disciplinary agencies. They are not designed to be a basis for civil liability. Explaining why the Rules of Professional Conduct are not to be used in the way that the trial court used them in Jury Instruction No. 10, the Mississippi Supreme Court has declared:

Furthermore, the purpose of the Rules can be subverted when they are invoked by opposing parties as procedural weapons. The fact that a Rule is just basis for a lawyer's self-assessment, or for sanctioning a lawyer under the administration of a disciplinary authority, does not imply that an antagonist in a collateral proceeding or transaction has standing to seek enforcement of the Rules. Accordingly, nothing in the rules should be deemed to augment any substantive legal duties of lawyers or the extra-disciplinary consequences of violating such a duty.

Wilbourn v. Stennett, Wilkinson & Ward, 687 So. 2d 1205, 1216 (Miss.1997).

The use of Jury Instruction No. 10 (P20) [CP p.169 (RE p.123)] allowed Mr. Cook to use the Rules of Civil Procedure inappropriately. The trial Court committed prejudicial error by instructing the jury in this manner on such a crucial, vital issue as an attorney's "duties". The instruction of the jury in this matter tainted the jury's deliberation on all counts which unduly prejudiced the jury. Therefore, the verdict and the judgment entered thereon in this case on July 7, 2006, should be set aside as to any remaining claims and Pierce should be granted a new trial.

III. The cumulative effect of errors in the exclusion of relevant evidence deprived Pierce of a fair trial, thus requiring reversal and remand for a new trial.

Pierce realizes that no trial is "perfect" and no one is entitled to a "perfect" trial. Therefore, Pierce will only focus on those errors which deprived Pierce of a "fair" trial.

- a. **The lower court refused to allow Pierce to put on evidence that Mr. Cook does not visit his children because he chooses to live a care-free, jobless lifestyle at his new home in Hollywood, California and chooses not to visit his children of his own volition.**

In Mr. Cook's complaint under Count One "Alienation of Affection", Mr. Cook alleges that part of the damages he has suffered as a result of the alienation of affection is being deprived of the ability to enjoy "the pleasure and companionship of his familial relationship" with his children. [CP p15, at ¶ 13 (RE p.44). In Mr. Cook's complaint under Count Three "Intentional Infliction of Emotional Distress", Mr. Cook alleges as a result of Pierce's intentional acts Mr. Cook's minor children have been deprived of Cook's companionship. [CP p19, at ¶ 20 (RE p.48).

In the opening statement, Mr. Cook's attorney argued:

And that's what we're going to show you, that this intentional infliction caused him damage . . . caused him not to be able to tuck his children into school – into bed, caused him not to be able to hug his children on Father's Day, on Christmas morning. And that is emotional damage. He's suffered.

[T. p. 12:18-26 (RE p. 128)]

His counsel further stated:

There was a breach of that knowledge that caused Mr. Cook to be separated from his wife, to be separated from his children because of the divorce; to undergo monetary damages; to suffer, to sit at night and cry because he can't see his children.

[T. p. 13:23-25 (RE p. 129)] Finally, Mr. Cook testified that a large part of his damages was the fact that that he no longer gets to see his children because Pierce had alienated him from his children. [T. p.218 (RE 181); T. p.224 (RE p.187); T. p.225 (RE p.188)].

Although the allegation that he no longer gets to see his children as a result of Pierce was a cornerstone of Mr. Cook's allegations, the trial court refused to allow Pierce to cross-examine Mr. Cook about the fact that he does not visit his children because he chooses to live a care-free, jobless

lifestyle at his new home in Hollywood, California and chooses not to visit his children of his own volition. [T. p. 405 (RE p.190); T. p.406 (RE p. 191)]. Pierce was allowed to make a limited proffer to show that Mr. Cook has the right to visit his children weekly but chooses not to visit his children of his own volition [T. p.406 to p. 447 (RE p. 191-212)] Pierce was not allowed to question Mr. Cook as to why he only visits his children 3 times a year; why Mr. Cook almost always returns them early during when he does have them; why Mr. Cook sold his home in Madison, Mississippi (only a mile away from his children) to live a care-free, jobless lifestyle at his new home in Hollywood, California. [T. p. 405 (RE p.190)] As a result of the trial court's rulings, Pierce was not allowed to question Mr. Cook about the state of his relationship with his children before the alienation.

Mr. Cook's claims that Pierce's conduct alienated him from his children almost appears to be a claim of parental alienation. In *Bland v. Hill*, 735 So.2d 414 (Miss.1999), the Mississippi Supreme Court held that in alienation cases, the defendant must be allowed to show that the alienation was caused by other factors, even the plaintiff's own conduct. *Id.* at 419. Because Pierce was not allowed to show the jury Mr. Cook's own actions and/or inactions with regard to parenting his children, Pierce was deprived of a fair trial and was unduly prejudiced. The same principle announced by the Court in *Bland* would apply to this case – Pierce should have been allowed to question Mr. Cook regarding his relationship with his children. One of the primary issues in this case was whether Pierce caused Mr. Cook's relationship with his children to suffer and, as a result of the trial court's rulings, Mr. Cook was allowed to portray his relationship with his children as perfect until Pierce entered the picture and thus “. . . the jury was not given the whole story.” *Id.* “By excluding this evidence, the trial court abused its discretion.” *Id.* Depriving Pierce of the

ability to cross-examine Mr. Cook regarding one of the central themes of his case deprived Pierce of a fair trial. *Id.* See also, *Blake v. Klien*, 903 So.2d 710 (Miss.2005).

b. The lower court refused to allow Pierce to put on evidence to establish the correct “rate of return on investment” that Mr. Cook’s accountant should have used.

Mr. Cook’s accountant, Raleigh Cutrer testified that, as a result of the alienation of his wife, Mr. Cook had to remove a total of \$499,000 from his trust fund. [T. p.334 (RE p. 237)] In addition, however, Mr. Cutrer testified that Mr. Cook lost between \$65,000.00 to \$115,000.00 because of the loss of income because of having to withdraw these funds from his trust (using an speculative return on investment of between 10% to 15%). [T. p. 377:10 to p. 378:25 (RE . 239-240)]. When Pierce’s counsel attempted to discover the total values of the trusts before and after, the trial court sustained Mr. Cook’s objection. [T. p.387:24 to p. 391:4 (RE p. 249-253)]. The accountant “cherry-picked” a rate of return on investment of between 10% to 15%), when he later testified that the trust had very little return in 2000, a one percent loss in 2001, a fifteen percent loss in 2002, before “positive” returns in 2003 and 2004. [T. p.399:14-28 (RE p. 254)] In order to diligently cross-examine the witness as to whether his use of return on investment of between 10% to 15%) was speculative or not, Pierce should have been entitled to discovery the total value of the trust before his involvement with Mr. Cook’s wife and at the time of trial. This is the only manner in which a proper “rate of return” for the trust could be established. Not allowing this evidence left the jury to speculate as to what the proper rate of return deprived Pierce of a fair trial. Compare, *United Southern Bank v. Bank of Mantee*, 680 So.2d 220 (Miss.1996) (Chancellor’s use of three-year yield rate in calculating loss of investment opportunity was speculative and abuse of discretion).

c. The lower court refused to allow Pierce to explain a comment he made on a tape recorded message left on Mr. Cook's answering machine.

Although the trial court gave Mr. Cook what can only be described as "wide latitude" in guessing what Mr. Pierce said on a tape-recorded message that was largely inaudible, the trial court refused to allow Pierce to testify that he was referring to Mr. Cook's stepfather on the phone message that he left Mr. Cook on his birthday, and not Mr. Cook's deceased father (whom his children refer to as "Grandpa"). Furthermore, Pierce was not allowed to elaborate on the fact that he mistakenly referred to Mr. Cook's stepfather as his "father" because his stepfather had been in his life for such a long time; in fact, he used to be Mr. Cook's uncle (married to Mr. Cook's father's sister). [T. p.698:15 to p.699:13 (RE p.147-148)] Finally, the trial court refused to allow Pierce to ask Mr. Cook's mother, Dorothy Sprayberry, whether it would be unusual for someone to refer to her husband as Mr. Cook's father. [T. p.577:12-23 (RE p.259)] These rulings deprived Mr. Pierce of the ability to explain his comments in a tape recorded message that was the "heart" of Mr. Cook's claim for intentional infliction of emotional distress. While this error may be small in and of itself, when combined with the other errors of the trial court the cumulative effect of these errors in the exclusion of relevant evidence deprived Pierce of a fair trial. *Blake v. Klien*, 903 So.2d 710 (Miss.2005).

d. The lower court refused to allow Pierce to question Mr. Cook as to why their marital home was titled in the name of his trust.

The definition of evidence is a broad one, favoring admissibility. *Bland*, 735 So.2d at 418-419. The trial court erred in refusing to allow Pierce to cross-examine Mr. Cook as to why he refused his wife's request to title their marital home from Mr. Cook's trust to their names as husband and wife. [T. p.495 (RE p. 213)] Pierce should have been allowed to show the jury that

Mr. Cook's total and complete financial domination of Mrs. Pierce was the reason she chose to divorce him, independent of Pierce's conduct. *Bland*, 735 So.2d at 418-419. Again, although this error may be small in and of itself, when combined with the other errors of the trial court the cumulative effect of these errors in the exclusion of relevant evidence deprived Pierce of a fair trial. *Blake v. Klien*, 903 So.2d 710 (Miss.2005).


Conclusion

As a result of the errors made by the trial court, the Court should the verdict and the judgment entered thereon in this case on July 7, 2006, should be set aside as to Mr. Cook's claim of legal malpractice and intentional infliction of emotional distress and the Court should render a judgment dismissing these claims. Furthermore, inasmuch as the cumulative effect of errors in the exclusion of relevant evidence deprived Pierce of a fair trial of the claim of alienation of affections, the Court should reverse and remand for a new trial on this claim alone.

Respectfully submitted, this the 21st day of September, 2007.

RONALD HENRY PIERCE
APPELLANT

BY: 
RONALD HENRY PIERCE, PRO SE

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CERTIFICATE OF SERVICE

I, RONALD HENRY PIERCE, do hereby certify that I have this day mailed via United States mail, postage prepaid, a true and correct copy of the above and foregoing to:

John G. Holaday, Esq.
681 Towne Center Blvd., Suite A
Ridgeland, Mississippi 39157

The Honorable Samac S. Richardson
Post Office Box 1599
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Betty W. Sephton, Clerk
Mississippi Supreme Court
Mississippi Court of Appeals
450 High Street
Post Office Box 249
Jackson, Mississippi 39205-0249

Elbert E. Haley, Jr.
Sharon Patterson Thibodeaux, Esq.
645 Lakeland East Dr., Suite 101
Flowood, Mississippi 39232

THIS, the 21st day of September, 2007.



RONALD HENRY PIERCE