

**IN THE SUPREME COURT OF THE STATE OF MISSISSIPPI**

**NO: 2007-CA-01644**

**LISA BRYANT, ET AL.**

**APPELLANTS**

**V.**

**BOARD OF SUPERVISORS OF THE  
RANKIN COUNTY, MISSISSIPPI, ET  
AL.**

**APPELLEES**

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**APPEAL FROM DECISION OF THE CIRCUIT COURT OF  
RANKIN COUNTY, MISSISSIPPI**

**BRIEF FOR APPELLEES**

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**ORAL ARGUMENT NOT REQUESTED**

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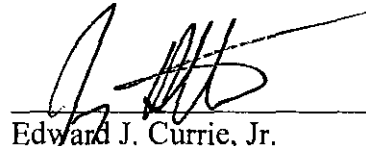
CERTIFICATE OF INTERESTED PERSONS

The undersigned counsel of record certifies that the following list of persons have an interest in the outcome of this case. The following representations are made in order that the justices of the Supreme Court and/or Court of Appeals may evaluate possible disqualification or recusal.

1. Lisa Bryant and Jimmy D. Bryant: **Plaintiffs/Appellants**
2. James A. Bobo; Akers&Bobo, PLLC: **Attorneys for Plaintiffs/Appellants**
3. The Board of Supervisors of Rankin County, Mississippi, and Rankin County, Mississippi: **Defendants/Appellees**
4. Edward J. Currie, Jr.  
Jeremy T. Hutto  
Currie Johnson Griffin Gaines & Myers, P.A.: **Attorneys for Appellees**
5. David L. Morrow, Jr.  
Morrow & Elliott, PLLC: **Board Attorneys for Rankin County, Mississippi**
6. Jared Morrison, Wood Brown,  
Greg Wilcox, Walter Johnson, Jay Bishop: **Present Members of the Rankin County Board of Supervisors**
7. Larry Swales, Ken Martin: **Former Members of the Rankin County Board of Supervisors**

8. Doris Jones, Michael V. Jones  
and Wilson Welbourn: **Co-Defendants**
9. Reeve G. Jacobus, Jr.  
Williford McAllister & Jacobus: **Attorneys for Co-Defendants**
10. Honorable Samac S. Richardson: **Rankin County Circuit Court Judge**

THIS the 21<sup>st</sup> day of April, 2008.

  
\_\_\_\_\_  
Edward J. Currie, Jr.  
Jeremy T. Hutto  
Attorneys for Appellees

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## **I: STATEMENT OF THE ISSUES**

- I. The trial court's grant of summary judgment is supported by the undisputed facts and law.

## **II: STATEMENT OF THE FACTS**

This Mississippi Tort Claims Act (hereinafter "MTCA") case originated with a July 15, 2005 single motor vehicle accident involving Appellant, Lisa Bryant (hereinafter "Bryant")<sup>1</sup>, on Monterey Road in Rankin County, Mississippi. Bryant alleges that she was forced off the roadway by a phantom vehicle, causing her vehicle to strike a brick mailbox located on the shoulder of the road at 729 Monterey Road. Bryant alleges that the mailbox was placed, designed, constructed, and maintained by the Jones defendants<sup>2</sup>. Bryant further alleges that the Board of Supervisors of Rankin County, Mississippi (hereinafter "Rankin County") breached its duty to discover the location of the brick mailbox, and to order its removal<sup>3</sup>.

Monterey Road is a county road located in Rankin County. However, Rankin County does not own Monterey Road nor the shoulder of the road where the mailbox was located<sup>4</sup>. Monterey Road is not maintained as a state aid road<sup>5</sup>. Rankin County does not even have a

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<sup>1</sup> See TR at 30 to 42. Lisa Bryant's husband, Jimmy D. Bryant, is also a Plaintiff to this action on a loss of consortium claim. For clarity Lisa and Jimmy Bryant will be referred to as "Bryant."

<sup>2</sup> See TR at 31. The Jones defendants include Doris Jones, Michael V. Jones, and Wilson Welbourn who are Co-Defendants in the underlying suit.

<sup>3</sup> See TR at 36 to 39. Bryant included in her complaint and amended complaint a specific reference to a Rankin County Ordinance regulating the types of permissible mailboxes. It was apparently unknown to Bryant when she filed her complaint that this Ordinance was rescinded on July 12, 1993, 11 years prior to the subject accident.

<sup>4</sup> See affidavit and title opinion of David Morrow, Esq., TR at 235 to 237.

<sup>5</sup> See Affidavit of Rankin County Engineer Charles S. Parker at TR 238.

dedicated right of way for Monterey Road<sup>6</sup>. A title search of the applicable land records by Attorney David Morrow, Rankin County's attorney, shows that there was never a recorded conveyance to Rankin County for the paved section of the roadway nor the shoulder of the road where the subject mailbox was located<sup>7</sup>.

After presentation of these facts, the trial court properly granted summary judgment to Rankin County.

### **III: SUMMARY OF THE ARGUMENT**

Under Miss. Code Ann. § 11-46-9(1)(v) and applicable Mississippi case law, Bryant had the burden of proving during the summary judgment proceedings before the trial court that the mailbox that she struck was located on property owned by Rankin County. Since the undisputed facts presented to the trial court, including applicable land records, demonstrate that Rankin County did not own the area on which the subject mailbox was located, Rankin County owed no duty to Bryant to remove the mailbox. As a result, the trial court's grant of summary judgment was proper.

### **IV: ARGUMENT**

#### **I. The trial court's grant of summary judgment is supported by the undisputed facts and law.**

##### **A. Ownership**

In order for Bryant to prove her claims against Rankin County, she must comply with the statutory mandates set forth in the MTCA, and specifically Miss. Code Ann. § 11-46-9(1)(v). Miss. Code Ann. § 11-46-9(1)(v) states, in relevant part, as follows:

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<sup>6</sup>See TR at 235 to 237.

<sup>7</sup>See Id.

(1) A governmental entity and its employees acting within the course and scope of their employment or duties shall not be liable for any claim:

(v) Arising out of an injury caused by a dangerous condition **on property of the governmental entity** that was not caused by a negligent or other wrongful conduct of an employee of the governmental entity or of which the governmental entity did not have notice, either actual or constructive, and adequate opportunity to protect or warn against...(Emphasis added)

Mississippi appellate courts have held that in order for a plaintiff to prove that a dangerous condition exists on the property, a plaintiff must prove (1) that a dangerous condition exists on certain property; (2) **that the governmental entity owns the property**; (3) that the governmental entity committed a negligent or wrongful act; (4) that this act proximately caused the Plaintiff's injury; or (5) that the governmental entity had actual or constructive notice of the dangerous condition and an adequate opportunity to protect or warn against; and (6) that the condition was not open and obvious. *See Hodges v. Madison County Medical Center*, 929 So.2d 381, 384 (¶10) (Miss.Ct.App. 2006); *Lowery v. Harrison County Bd. of Supervisors*, 891 So.2d 264, 267 (¶12) (Miss.Ct.App. 2004). Since the subject mailbox was not located on property owned by Rankin County, the trial court properly granted summary judgment.

The undisputed evidence shows that there was never a record conveyance to Rankin County for the roadway or the property where the subject mailbox is located<sup>8</sup>. Despite this fact, Bryant argues that a triable issue of fact exists as to whether the subject mailbox was located on property of Rankin County. Bryant's attempt to create a fact issue over ownership of the property where the mailbox is located, in the present tort claims act case, is legally impermissible. Furthermore, Bryant's use of conclusory affidavits in an attempt to "confirm" title of the road in Rankin County does not comply with Mississippi law. In order to confirm ownership of property

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<sup>8</sup>See affidavit and title opinion of David Morrow, Esq. at TR at 235 to 237.

where a dispute exists, the owner, or alleged owner or possessor, of the property must bring an action in chancery court to establish or quiet title to the property. *See* Miss. Code Ann. §§ 11-17-29, 11-17-31. Rankin County claims no such ownership.

While it is questionable that Bryant would even have standing to pursue a suit to quiet title, it is undisputed that Bryant never brought an action in chancery court in accordance with Miss. Code Ann. §§ 11-17-29, 11-17-31 to establish or quiet title to the subject property. Therefore, Bryant's allegation that a fact question exists as to whether Rankin County owns the property<sup>9</sup> where the subject mailbox is located is without merit and was properly rejected by the trial court.

The trial court's decision that the mailbox was not on county property was logically based upon the fact that Bryant failed to bring forth any substantive evidence to support her contention that Rankin County owned the property on which the mailbox was located. Instead, Bryant offered the affidavit of John B. Sandifer<sup>10</sup> ("Sandifer Affidavit"), and a survey prepared by T.E. McDonald in support of her argument. A review of these documents, however, reveals that they do not create an issue of material fact to defeat Rankin County's Motion for Summary Judgment.

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<sup>9</sup> Even assuming, *arguendo*, that the subject mailbox was located on Rankin County's property, which it was not, proof of ownership of property alone does not create a fact issue or otherwise prove negligence. *See Scott v. Wal-Mart Stores East, Inc.*, 2008 WL 346096 at \*3 (S.D. Miss.); *Kroger, Inc. v. Ware*, 512 So.2d 1281, 1282 (Miss. 1987).

<sup>10</sup> In response to Rankin County's Motion for Summary Judgment, Bryant offered the Affidavits of John B. Sandifer, and John Steven Sandifer, although Bryant only mentions the affidavit of "John Sandifer" in her brief. In any event, Rankin County filed a Motion to Strike these Affidavits, which is included in the trial record at 248 to 257. The trial court did not specifically rule on Rankin County's Motion to Strike. However, the Court's Order sustaining Rankin County's Summary Judgment Motion obviously rejected the contention that Sandifer's Affidavit created a fact issue.

In paragraph five (5)<sup>11</sup> of the Sandifer affidavit, Sandifer states that “[i]t has been my understanding that Rankin County owns the property located on each side of Monterey Road, which includes the property from the far side of the ditch to the paved portion of the road.” This averment contained in Sandifer’s affidavit makes an ultimate legal conclusion on an ownership issue that only a chancery court can properly determine, and, therefore, it is irrelevant. Furthermore, the testimony contained in paragraph five (5) of the Sandifer Affidavit is highly speculative since it only states Sandifer’s “understanding” as to who owns Monterey Road. The trial court examined these averments and rejected them, finding that the mailbox was not located on property owned by Rankin County.

Miss. Rule Civ. Proc. 56 addresses the requirements of Affidavits that are used in summary judgment proceedings. Specifically, Rule 56(e) states:

Supporting and opposing affidavits shall be made on personal knowledge, **shall set forth such facts as would be admissible in evidence**, and shall show affirmatively that the affiant is competent to testify to the matter stated therein.

Courts have commented that inadmissible evidence and conclusory assertions are insufficient to defeat summary judgment. *See Evan Johnson & Sons Const., Inc. v. State*, 877 So.2d 360, 365 (¶18) (Miss. 2004)(holding that conclusory affidavit did not present a material issue of genuine fact); *McIntosh v. Victoria Corp.*, 877 So.2d 519, 523 (¶13) (Miss.Ct.App. 2004).

Even if Sandifer’s affidavit was construed as proper evidence in a summary judgment context, which Rankin County expressly denies, the statements in the affidavit are irrelevant. Sandifer’s affidavit fails to overcome the undisputed land record evidence that Rankin County does not own the roadway where the subject accident occurred. Whether or not Rankin County

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<sup>11</sup>See TR at 256.

performed maintenance on the road near the location of the subject accident occurred does not prove that Rankin County owned the property or that it had a duty to remove the subject mailbox from the shoulder of the road. The trial court correctly rejected the Sandifer affidavits as unsubstantiated and insufficient to overcome summary judgment.

Bryant also contends that a survey prepared by T.E. McDonald, Inc., establishes a right-of-way or ownership of Rankin County on the road in question. This position was also rejected by the trial court. Morrow's title search<sup>12</sup> discloses that J.F. Barnes and S.L. Barnes last had title to the land for the road, and that there was never a recorded conveyance to Rankin County for that section of the roadway where the mailbox at issue was located. Although Rankin County had constructive use of the paved portion of Monterey Road (pavement edge to pavement edge), there is no recorded deed conveying any interest to Rankin County in Monterey Road or any part of the area where the subject mailbox was located, much less the shoulder of the road. Moreover, notwithstanding this statutory requirement of "ownership" to predicate liability, the record clearly discloses that Rankin County, in fact, did not have a dedicated right of way to the road at that location<sup>13</sup>. Accordingly, the trial court was correct in sustaining Rankin County's Motion for Summary Judgment.

**B. Bryant failed to show any duty of Rankin County to remove the mailbox**

Since Rankin County does not own the property where the mailbox at issue was located, Rankin County never had a duty to remove the subject mailbox. The fact that Rankin County did

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<sup>12</sup> Morrow's Affidavit and title opinion are located at TR 235 to 237. Rankin County is the only party that obtained a complete title opinion.

<sup>13</sup> See Affidavit of Charles Parker at TR 89, and Morrow's Affidavit and title opinion at TR 235 to 237.

not own the property where the subject mailbox was located is dispositive of Bryant's claims against Rankin County. *See* Miss. Code Ann. § 11-46-9(1)(v). Therefore, whether Rankin County had notice of the alleged dangerous condition created by the mailbox is irrelevant and cannot be the basis of a disputed fact issue. The trial court correctly found that Rankin County did not have notice of a dangerous condition on property it owns<sup>14</sup>.

Bryant argues that § 65-7-7 prohibits the obstruction of a roadway, and requires that any obstruction be immediately removed by either the landowner or the overseer of the road, *i.e.* Rankin County. Section 65-7-7 states, in relevant part as follows:

If any person shall fell any bush or tree and leave any portion thereof in any stream or on any public highway, road, or ditch draining the roadway or obstruct the same in any manner whatsoever, and not immediately remove the obstruction, the overseer of the road shall remove the same, and the person so felling the bush or tree, or otherwise obstructing the road or water shall forfeit and pay all expenses of removing the same...It is the duty of the overseer to cause suit to be commenced thereof, and such person shall be liable for all damages occasioned to another by the obstruction.

This argument fails in several respects. Section 65-7-7 discusses obstructions that impede traffic<sup>15</sup>, or obstructions in a ditch that impedes drainage. It is undisputed that the subject mailbox was not in any manner obstructing traffic, nor was it impeding drainage of a ditch. The trial court recognized this fact and noted that “[t]he statute (65-5-7) refers to “the roadway” and recognizing the fact that although a shoulder of the road may be considered part of the roadway,

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<sup>14</sup>See TR at 266 (¶2).

<sup>15</sup> Rankin County has been unable to find any case that applies Section 65-7-7 in the manner Bryant contends this Court should apply it. The annotations to this statute discuss gates erected across public roads (see Op. Atty. Gen. No. 200-0419, McKay, August 11, 2000); electronically controlled gates at subdivisions (see Op. Atty. Gen. No. 96-0129, Hyche, March 22, 1996); private security gates detaining motorists (see Op. Atty. Gen. No. 98-0356, Toney, June 19, 1998); and cattle gaps, (see Op. Atty. Gen. No. 2001-0299, Shannon, May 25, 2001).

it is not a portion of the roadway which was meant to allow travel<sup>16</sup>.”

Bryant next argues that the trial court improperly cited Miss. Code Ann. §§ 65-7-11 and 65-7-15 in support of its interpretation of Section 65-7-7. However, a reading of the trial court’s Order and Judgment demonstrates that the trial court cited these statutory sections only to explain why Bryant’s application of Section 65-7-7 to the facts was erroneous. Section 65-7-11 states, in relevant part as follows:

When hedges are planted along any public road, the owner of the land shall trim the hedges on the side next to the road and keep them trimmed, so that travelers will not be inconvenienced thereby. If the hedges intrude upon any road, the overseer shall give written notice to the owner or occupant of the land to have the hedges trimmed...so as not to obstruct the road or interfere with travelers...

Section 65-7-15 states, in relevant part, as follows:

The board of supervisors of the several counties of the state shall forthwith erect or cause to be erected, at all forks, crossroads or road intersections on all of the state highways and all other principal roads within their county, sign or guide boards in compliance with specifications theretofore furnished by the state highway department or state highway engineer.

The trial court noted with respect to Sections 65-7-11 and 65-7-15 that “[c]ommon sense tells one that these statutes contemplate the use of the shoulder for the planting of hedges or erection of a sign, therefore they would not be considered to be an obstruction of the “roadway” unless negligently placed<sup>17</sup>.”

Bryant argues that section 65-7-7 required Rankin County to remove the subject mailbox simply because the mailbox was located near a paved roadway. The trial court correctly decided, however, that the provisions of Sections 65-7-11 and 65-7-15 establish that Rankin County did

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<sup>16</sup>See TR at 266, ¶5.

<sup>17</sup>See TR at 266, ¶ 5.

not violate a statutory mandate (65-7-7) simply because a brick mailbox was placed by the landowner near a paved roadway, since these Sections authorize the placement of structures near the roadway. This interpretation by the trial court of statutory law clearly shows that Section 65-7-7 was intended to apply to situations where objects actually block or impede traffic.

Bryant next devotes three full pages of her brief arguing that the trial court created an impermissible “public policy” exception to Miss. Code Ann. § 65-7-7 by refusing to include mailboxes constructed on the side of roads within the purview of the statute. This argument must fail since Miss. Code Ann. § 65-7-7 clearly does not apply to the facts in Bryant’s case<sup>18</sup>. Bryant also cites to US Postal Regulation 508.3.2.1, as well as MDOT Rule No. 941-7501-01013 regarding “mailbox supports” while making her argument. Regulation 508.3.2.1 states, in relevant part as follows:

3.2.1 Manufacturer Specifications. Manufactures of all mailboxes designed and made to be erected at the edge of a roadway or curbside...must obtain approval of their products under USPS Standard 7, Mailboxes, City and Rural Curbside.

MDOT Rule No. 941-7501-01013(C)(10)(b) states, in relevant part as follows:

Summary<sup>19</sup>: This rule sets forth the requirements necessary to regulate the use of state highways rights of way for the construction and maintenance of driveways, other connections, median openings, frontage roads and signs on partially controlled access highways.

10. Mailboxes to be placed on the highway right of way must meet the following specifications which are to be made a part of driveway permit applications:

(b) Mailbox supports may be 4" x 4" square or 4" diameter round wood posts, 6"

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<sup>18</sup> Nowhere in the trial court’s order did the court state it was creating a public policy exception to Miss. Code Ann. § 65-7-7. See TR at 265 to 268.

<sup>19</sup> The “summary” portion of the MDOT rule is located immediately before Section A titled “General Requirements.”

diameter PVC pipe, or any other mailbox supports listed in the current edition of the AASHTO Roadside Design Guide, Chapter 11...

A reading of the US Postal Regulation and MDOT Rule cited above clearly shows that neither one is applicable to Rankin County. Since Rankin County did not manufacture the subject mailbox, the US Postal Regulation is clearly not applicable to Rankin County. The MDOT Rule states that it is applicable to “state highways,” and it is therefore not applicable to Rankin County because Monterey Road is not a “state highway” nor a “state aid road.” Furthermore, no allegations have been made by Bryant to the effect that Monterey Road is a “state highway” or “state aid road.” Bryant also makes reference to an American Association of State Highway and Transportation Officials Reports (“AASHTO”) report regarding mailboxes and mailbox supports. This report appears to be simply a recommendation to highway agencies. Bryant offers no evidence that this report is in anyway applicable to Rankin County in the subject case. Furthermore, Bryant admits in her brief that neither MDOT Rule No. 941-7501-01013 nor the AASHTO regulations are applicable to the subject case<sup>20</sup>.

Additionally, since neither the US Postal Service Regulation nor the MDOT Rule were brought forth at the trial court level, they cannot properly be brought before this Court on appeal. *See Walker v. State*, 823 So.2d 557, 561 at ¶6 (Miss.Ct.App. 2002)(failure to raise issue at trial court level bars consideration at appellate level); *Jaco v. State*, 574 So.2d 625, 634 (Miss. 1990).

In sum, Bryant wholly fails to point to any proof, either through affidavits, discovery responses or otherwise that would create a genuine issue of material fact of duty or breach of duty on the part of Rankin County, and the trial court’s dismissal of Rankin County was correct.

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<sup>20</sup>See Appellant’s Brief at page 21.

**C. The trial court relied upon proper authority to grant summary judgment to Rankin County**

Bryant argues that the trial court incorrectly relied upon *Ladner v. Stone County*, 938 So.2d 70 (Miss. Ct. App. 2006), and *Wade v. Gray*, 61 So. 168 (Miss. 1913), in support of its decision to grant Summary Judgment. Again, Bryant's argument is misplaced. First, it is important to note that the court in *Ladner* was dealing with two different governmental entities: the Mississippi Department of Transportation, and Stone County, Mississippi ("Stone County"). The accident occurred when Kirby Creek Bridge collapsed on Old Highway 26 in Stone County, Mississippi while Ladner was attempting to cross the bridge. *Ladner v. Stone County*, 938 So.2d at ¶3. The issue relevant in *Ladner* and the case, *sub judice*, was whether a plaintiff must prove that a dangerous condition existed on a governmental entity's property before pursuing a dangerous condition claim. Ladner brought suit against the MDOT and Stone County, arguing that both entities were liable for failing to inspect and properly maintain Kirby Creek Bridge. The trial court dismissed both defendants.

On appeal the Court of Appeals affirmed the dismissal as to the MDOT, but reversed and remanded the dismissal as to Stone County. However, for purposes of determining whether the trial court correctly relied on *Ladner* in the instant case, an examination of the affirmance of the appellate court's dismissal of the MDOT should be examined. The *Ladner* court held that "[t]o state a cause of action under the dangerous condition exemption of the Mississippi Tort Claims Act ("MTCA"), a plaintiff must show: (1) a dangerous condition, (2) on the government entity's property, (3) which the government entity caused, or which it had notice and time to protect or warn against, and (4) the condition was not open and obvious." *Id.* at ¶15; citing Miss. Code Ann. ¶ 11-46-9(1)(v). The court held that "Ladner's claim fails on the second element. There

was no dispute that Kirby Creek Bridge was a county road, not a state highway. Therefore, she cannot maintain a dangerous condition cause of action against the State Aid defendants.” Id.

The trial court in the present case likewise found that the subject mailbox was not located on property owned by Rankin County<sup>21</sup>. Therefore, the trial court’s reliance on *Ladner* was not erroneous, and Bryant’s contention is without merit.

Bryant also mentions in passing that the trial court was in error in relying upon *Wade v. Gray*, 61 So. 168 (Miss. 1913). Gray (appellee) brought suit against a road contractor for injuries sustained to his horse which fell into an uncovered culvert created by Wade (road contractor). Id. at 168. After a jury awarded damages to Gray, Wade appealed, arguing that since he was doing work on behalf of the county, and since the county could not have been held liable, that Wade should likewise not be held liable.

The primary issue addressed on appeal by the *Wade* court was whether Wade was an independent contractor and not an agent of the county. The court held that although the county could not be held liable for Wade’s acts, Wade could not claim protection from liability through the county. “Mr. Wade is an independent contractor. His duty is to work the roads in accordance with plans and specifications.” “There is no relation of principal and agent between him and county.” Id. at 169. In other words, the court simply found that because the county could not be held liable for Wade’s actions, Wade was not entitled to immunity. This logically fits with the trial court’s decision in the instant case. Because it is undisputed that Rankin County did not erect, maintain, or place the subject mailbox<sup>22</sup>, Rankin County cannot be held liable for the

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<sup>21</sup>See TR at 260, ¶¶2-4.

<sup>22</sup>This is undisputed by Bryant. See Bryant’s Complaint at TR 31, ¶8.

mailbox.

The trial court was not in error in relying on either *Ladner* or *Wade* in its Summary Judgment decision. Both of these cases support the Court's holding that the subject mailbox was not located on Rankin County's property<sup>23</sup>, and that Rankin County did not create any alleged dangerous condition by any act of its employees<sup>24</sup>.

#### **D. Donation**

Lastly, Bryant states that Rankin County allowed Jones to place the subject mailbox "in Monterey Road." Bryant further states that this somehow should have provided notice of the dangerous condition of the mailbox to Rankin County. Because Bryant failed to prove that the subject mailbox was located on Rankin County's property, this argument fails as a matter of law. Assuming, for the sake of argument, that Bryant's position is correct, it in no way explains how a "donation" of the mailbox would have proximately caused the subject accident. *See Glover v. Jackson State University*, 968 So.2d 1267, 1276 at ¶29 (Miss. 2007)(to recover for injuries in a negligence claim, a plaintiff must prove that defendant was negligent, and that such negligence was the proximate cause of the injuries.)

#### **V: CONCLUSION**

The trial court properly granted summary judgment to Rankin County. Bryant failed to provide any proof to justify her claim that Rankin County should be held responsible for her running off the roadway due to an alleged phantom motorist and striking a brick mailbox. The undisputed proof shows that the subject mailbox was not located on property owned by Rankin County nor was erected by Rankin County. Therefore, no duty ever arose, and Bryant's failure

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<sup>23</sup>See TR at 266, ¶2.


<sup>24</sup>See TR at 266, ¶4.

to prove that Rankin County owned the property where the subject mailbox was located is fatal to Bryant's claims against Rankin County. Accordingly, this Honorable Court should affirm the trial court's grant of summary judgment to Rankin County.

Respectfully submitted,

Board of Supervisors of Rankin County, Mississippi, and  
Rankin County, Mississippi

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## **VI: CERTIFICATE OF SERVICE**

I, Jeremy T. Hutto, one of the attorneys of record for the Board of Supervisors of Rankin County, Mississippi, and Rankin County, Mississippi, hereby certify that I have this day caused to be mailed, via US Mail, postage fully prepaid, a copy of the above and forgoing instrument to:

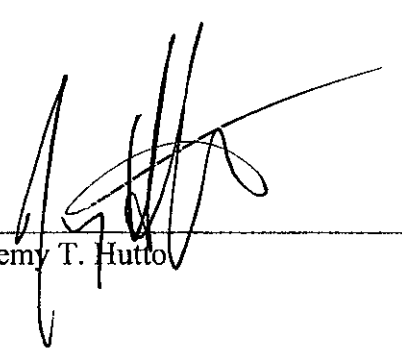
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**Rankin County Circuit Court Judge:**

Honorable Samac Richardson  
Post Office Box 1885  
Brandon, MS 39043-1885

This the 21<sup>st</sup> day of April, 2008.



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Jeremy T. Hutto