

CERTIFICATE OF INTERESTED PERSONS

The undersigned counsel of record certifies that the following listed persons have an interest in the outcome of this case. These representations are made in order that this Court may evaluate possible disqualification or recusal:

1. Ann Porcello, as Conservator for Margaret Bellino, 4401 West 4th Street, Hattiesburg, MS 39402
2. Steven J. Bellino, 751 Harold Tucker Road, Hattiesburg, MS 39401
3. Estate of Stephen J. Bellino, Sr.
4. Brandon L. Brooks, Post Office Box 1008, Hattiesburg, MS 39403
5. William Gault, Jr., P.O. Box 12314, Jackson, MS 39236
6. Samuel S. McHard, 15 Milbranch Road, Hattiesburg, MS 39402
7. Glenn L. White, 207 Old Richton Road, Petal, MS 39465
8. Honorable James H.C. Thomas, Jr., P.O. Box 807, Hattiesburg, MS 39403-0807



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TABLE OF CONTENTS

CERTIFICATE OF INTERESTED PERSONS	i
TABLE OF CONTENTS	ii
TABLE OF CASES	iii
ORAL ARGUMENT REQUESTED	1
STATEMENT OF ISSUES	2
STATEMENT OF THE CASE	
A. NATURE OF CASE	3
B. STATEMENT OF FACTS AND COURSE OF PROCEEDINGS	5
SUMMARY OF THE ARGUMENT	12
ARGUMENT	
I. STANDARD OF REVIEW	13
II. THE APPELLANT'S BRIEF IS PROCEDURALLY BARRED PURSUANT TO MRAP 28 OR PORTIONS SHOULD BE STRICKEN AS OUTSIDE THE RECORD AND UNSUPPORTED BY CITATION	13
III. THE CHANCELLOR CORRECTLY DETERMINED THAT THE JUDGMENT OF DIVORCE DID NOT IMPLICITLY REVOKE THE PARTIES RIGHTS IN THE AGE MUTUAL FUND JOINT ACCOUNT	15
IV. THE CHANCELLOR CORRECTLY APPLIED MISSISSIPPI LAW AND DETERMINED THE AGE ACCOUNT TO BE A JOINT TENANCY WITH RIGHTS OF SURVIVORSHIP	17
V. JUDICIAL ESTOPPEL IS INAPPLICABLE	31
CONCLUSION	33
CERTIFICATE OF SERVICE	34

TABLE OF CASES

<u>Cases</u>	<u>Page(s)</u>
<i>Anglado v. Leaf River Forest Prods.</i> , 716 So. 2d 543, 547 (¶13) (Miss. 1998).....	13
<i>Association of Trial Lawyers Assurance v. Tsai</i> , 879 So. 2d 1024 (Miss. 2004).....	21
<i>Birrages v. Ill. Cent. R.R.</i> , 950 So. 2d 188, 194 (Miss. Ct. App. 2006).....	15
<i>Browning Mfg. v. Mims</i> , 179 F. 3d 197, 205 (5 th Cir.1999).....	31
<i>Davis v. Davis</i> , 301 So.2d 154, 156 (Fla.Dist.Ct.App. 1974).....	16
<i>Davis v. J.C. Penny Co., Inc.</i> , 881 So. 2d 969 (Miss. Ct. App. 2004).....	14
<i>De St. Germain v. De St. Germain</i> , 2008 WL 711652 (Miss. App.).....	23
<i>Dockins v. Allred</i> , 849 So. 2d 151, 155 (Miss. 2003).....	31
<i>Galloway v. Travelers Ins. Co.</i> , 515 So. 2d 678, 684 (Miss. 1987).....	13
<i>Guiffria v. Concannon</i> , 851 So. 2d 436 (Miss. Ct. App. 2003).....	14
<i>In re Estate of Cannon</i> , 733 So.2d 245, 250 (Miss 1999).....	18
<i>In re Estate of Hodges</i> 807 So.2d 438 (Miss. 2002).....	16
<i>Johnson v. Johnson</i> , 650 So. 2d 1281, 1286 (Miss. 1994).....	8
<i>Matter of Estate of Bodman v. Bodman</i> , 674 So. 2d 1245 (Miss. 1996).....	18
<i>Mayo v. Equitable Life Assur. Soc.</i> 71 Miss. 590, 15 So. 791 (Miss.1894).....	21
<i>McKnight v. McKnight</i> , 267 So.2d 315 (Miss. 1972).....	16
<i>Mitchell v. Craft</i> , 211 So. 2d 509, 511 (Miss. 1968).....	21
<i>Netterville v. Weyerhaeuser Co.</i> , 963 So.2d 38, 41-42 (Miss.App.,2007).....	30
<i>Quin v. Metz (In re Estate of Huff)</i> , 676 So. 2d 264, 265 (Miss. 1996).....	19
<i>Reed v. State</i> , 987 So. 2d 1054, 1056 (Miss. Ct. App. 2008).....	14

<i>R.K. v. J.K.</i> , 946 So. 2d 764, 776 (..35) (Miss. 2007).....	29
<i>R.N. Turnbow Oil Investments v. McIntosh</i> , 873 So. 2d 960 (Miss. 2004).....	28, 29
<i>Sorey v. Crosby</i> , 989 So. 2d 485, 487 (Miss. Ct. App. 2008).....	15
<i>Strange v. Strange</i> , 548 So.2d 1323, 1326 (Miss 1989).....	18
<i>Stringfellow v. Stringfellow</i> , 451 So. 2d 219, 221 (Miss. 1984).....	29
<i>Telford v. Aloway</i> , 530 So. 2d 179, 181 (Miss. 1988).....	29
<i>Trotter v. State of Mississippi</i> , 907 So. 2d 397 (Miss. Ct. App. 2005).....	4
<i>Vaughn v. Vaughn</i> , 118 So. 2d 620, 622 (Miss. 1960).....	18
<i>Wallace v. United Mississippi Bank</i> , 726 So.2d 578, 584(Miss. 1998).....	18
<i>West Va. Oil & Gas Co. v. Breece Lumber Co.</i> , 213 F. 2d 702 (5 th Cir. 1954).....	27
<i>Whitney National Bank of New Orleans v. Smith</i> , 613 So. 2d312, 315 (Miss. 1993).....	26-27, 30
<i>Zurich American Ins. Co. V. Goodwin</i> , 920 So. 2d 427, 433 (Miss. 2006).....	21

Statutes

Miss. Code Ann. § 81-5-63.....	18
Mississippi Code Ann. § 91-1- 1.....	20

Uniform Rules of Chancery Court Practice

Rule 8.05.....	9, 26
----------------	-------

Mississippi Rules of Civil Procedure

M.R.C.P. 7(b)(1).....	7
M.R.C.P. 25.....	24
M.R.C.P. 25(a).....	9

M.R.C.P. 25(a)(1).....	24
M.R.C.P. 56(c).....	7, 13
M.R.C.P. 56(e).....	7
M.R.C.P. 59.....	3, 4, 8, 10, 23, 29
M.R.C.P. 59(e).....	23, 25
M.R.C.P. 60.....	3, 4, 10, 24
M.R.C.P. 60(a).....	11, 22, 24, 25, 26, 28, 30, 32
M.R.C.P. 60(b).....	23, 25, 27, 29, 30, 31
M.R.C.P. 60(b)(2).....	29, 30
M.R.C.P. 60(b)(3).....	30
M.R.C.P. 62.....	4

Mississippi Rules of Appellate Procedure

M.R.A.P. 4(a).....	4
M.R.A.P. 28.....	15
M.R.A.P. 28(a)(3).....	13
M.R.A.P. 28(a)(6).....	15

Secondary Sources

<i>Black's Law Dictionary</i> (2d. Ed.).....	21, 26
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ORAL ARGUMENT REQUESTED

The Appellee believes that oral argument would be beneficial for this Court's review because this matter involves the consolidation of three cases and the procedural posture and the underlying facts are complicated. An oral presentation would assist the Court in the importance of the facts and with a clarification of the legal issues. The Appellee hereby requests that for the foregoing reasons, this Court grant oral argument in this matter.

STATEMENT OF ISSUES

Whether the Chancellor erred in the application of Mississippi law and the determination that the AG Edwards Joint Mutual Fund Account was owned as Joint Tenancy with Rights of Survivorship and therefore vested entirely in Margaret Bellino as the surviving joint tenant immediately upon the death of her ex-husband, Stephen J. Bellino on June 18, 2006, six weeks after entry of a Judgment of Divorce ending the Bellinos' marriage.

STATEMENT OF THE CASE

A. NATURE OF THE CASE

This case arises from three separate cases which were consolidated before the Honorable Judge James H. C. Thomas in the Chancery Court of Forrest County. Those cases were as follows: a divorce matter, cause number 04-0482-GN-TH, the estate of the Stephen J. Bellino who died shortly after the divorce, cause number 06-0156-PR-TH, and a suit involving improper transfer of funds held in a joint tenancy account with A. G. Edwards, cause number 07-0637-GN-TH. After divorce and the death of her ex-husband, Margaret Bellino sought funds in the amount of \$146,000.00, which had been held in an A.G. Edwards joint account with her deceased husband. However, the funds had been improperly removed by the administrator of the Estate of Stephen J. Bellino after three ex-parte orders resulting from three ex-parte conferences without notice to Margaret Bellino or her counsel.

On behalf of three non-parties to a divorce (Brandon Brooks, Stephen Bellino, II and Christina Bellino) and after presenting three exparte orders related to an AGE Joint Tenancy Mutual Fund Account (October 9, 2006; November 16, 2006, and November 20, 2006. See Record, Pages 112-115 & 445), Counsel, Brandon Brooks, filed a belated Rule 60 Motion in an attempt to retry the divorce of a decedent and to modify the substance of the Judgment of Divorce entered on May 2, 2006, in the Divorce of Stephen J. Bellino and Margaret C. Bellino. Absent a proper, timely Rule 59 and/or Rule 60 motion filed within the time restraints provided by the Mississippi Rules of Civil Procedure, the Appellants sought to substantively modify the Judgment of Divorce under the guise of a clerical mistake (scrivener's error).

On April 13, 2009, the Honorable James H.C. Thomas, Jr. of the Chancery Court of Forrest County, Mississippi entered an Order and Summary Judgment in the consolidated styled matters, *In the Matter of the Estate of Stephen J. Bellino, Deceased* – Cause No. 06-0156-PR-TH; *Stephen J. Bellino v. Margaret Bellino* – Cause No. 04-04820-GN-TH; *Margaret C. Bellino v. A.G. Edwards & Sons, Inc., Stephen J. Bellino, Jr., and Brandon L. Brooks* – Cause No. 07-0637-GN-TH. In the April 13, 2009 Order, the Chancellor found that there was no genuine issue as to the ownership or status of the A.G. Edwards funds and summary judgment was granted in favor of Margaret Bellino vesting ownership in Margaret Bellino of all those funds taken from the A. G. Edwards account after the death of Stephen J. Bellino.

A Motion to Reconsider the April 13, 2009 Order was filed on April 23, 2009.¹ See Record, Pages 1940-1941. After a hearing on the motion, the Chancellor promptly denied the relief on May 14, 2009 because the motion was substantively and procedurally defective. See Record, Pages 1952-1953. On May 13, 2009, Brandon L. Brooks filed three identical separate Notice of Appeal in each styled matter seeking to appeal the Chancellor's Order dated April 13, 2009. The notice failed to "designate as a whole or in part the judgment appealed from" and instead merely referenced "the decision entered on April 13, 2009" without any mention of the Order dated May 14, 2009 denying the fatally defective Motion to Reconsider. No notice of appeal was ever filed regarding the May 14, 2009 Order and the 30 day time limit for appeal of that Order mandatory by Miss. R. App. Pro. 4(a) has expired. See Record, Pages 1946-1951.

¹ On April 23, 2009, Brandon L. Brooks, Stephen Bellino, II, and Christina Bellino filed a defective one page, scant Motion to Set Aside or Reconsider purportedly based on Miss. R. Civ. Pro. 59, 60, and 62. However, said Motion utterly failed to comply with Miss. R. Civ. Pro. 7(b)(1) because it failed to explain the grounds for appeal and was merely an effort to "re-litigate" the case. See *Trotter v. State of Mississippi*, 907 So. 2d 397 (Miss. Ct. App. 2005).

B. STATEMENT OF FACTS AND COURSE OF PROCEEDINGS

Stephen J. Bellino and Margaret Bellino were lawfully wed on January 13, 1974. See Record, Pages 96-100. Sometime in 1988, Stephen Bellino inherited approximately \$200,000 from his deceased parents. Stephen and Margaret spent a portion of that inheritance on vehicles and other bills. The remainder was invested into the stock market. On May 22, 1995, Stephen and Margaret Bellino opened a joint tenancy mutual fund account with A.G. Edwards (hereinafter "AGE"), and executed a Joint Account Agreement. See Record, Pages 380-383. The Agreement was a form document provided by AGE. Although the AGE joint account was initially opened at the AGE branch office in Alexandria, Louisiana, just two years later, in 1997, Stephen and Margaret Bellino moved to Petal, Mississippi, to become domiciled in the state of Mississippi, where they remained through the time of their divorce on May 2, 2006 and until Stephen's death on June 18, 2006. See Record, Pages 96-100.

The AGE mutual fund account was created on May 22, 1995 by signing a "Joint Account Agreement" with A.G. Edwards (hereinafter "AGE"), creating an investment account owned in joint tenancy with rights of survivorship. The Joint Account Agreement, signed by Stephen J. and Margaret Bellino, plainly stated, "this joint account will be carried as joint tenants with rights of survivorship and not as tenants in common." See Record, Pages 380-383. Immediately following this unambiguous statement, the agreement provided a line for designation of the intended type of tenancy if not to be a joint tenancy with rights of survivorship. This line remained blank.

At the time of creation and at all relevant times, the signatory parties to this agreement understood from the contract language and intended that the joint account be carried on as a joint tenancy with rights of survivorship. See Record, Page 384. Also, at the time the AGE joint account

was created and all relevant times, AGE was headquartered in St. Louis, Missouri where the account assets were controlled and communications related thereto directed. At the time of creation of the AGE joint account, Stephen J. Bellino and Margaret Bellino were residents of Louisiana; however, within two (2) years the Bellinos moved in 1997 from Louisiana and established residence in Forrest County, MS.

After thirty four years of marriage, Stephen J. Bellino and Margaret Bellino were granted a divorce after a full trial on the merits (hereinafter referred to as "Bellino Divorce"). On March 30, 2006, the Chancellor issued a Memorandum Opinion which expressed its findings and conclusions. The substantive terms of the Memorandum Opinion was then accurately embodied in the Judgment of Divorce, which was entered on May 2, 2006. See Record, Pages 91-100.

The Memorandum Opinion in the Bellino Divorce did not address the AGE joint investment account, and moreover, the AGE account was not reflected in the Final Judgment of Divorce. On March 30, 2006, the Memorandum Opinion, specifically stated, "The Court finds the marital property of the parties consists of the home equity, the vehicles, motor home, 401K account, porcelain and antiques, totaling \$363,700.00 to be equitable divided between the parties. Plaintiff's Wal-Mart stock, purchased with his inheritance proceeds and Defendant's jewelry and furs are not considered marital properties." See Record, Pages 91-95. Furthermore, the court equitably divided the marital property as follows, "Defendant is awarded fee simple title to the home and its contents valued at \$80,000.00; the porcelain and antiques valued at \$40,000.00; her automobiles worth \$14,000.00; the motor home valued at \$8,000.00; and a portion of the Plaintiff's 401K in the amount of \$39,850.00 to total an award of \$181,850.00. Any tax ramifications of withdrawals from the 401K shall be equally borne by the parties. Plaintiff is awarded his vehicles valued at \$17,700.00, the

personal property in his possession currently, and the balance of his 401K account after deducting the \$39,850.00 awarded to the Defendant. Plaintiff shall pay the marital debts currently in his name or in the joint names of the parties, exclusive of the mortgages on the home. Based on the length of marriage, her living standards and lack of current income being earned by Defendant, she is awarded periodic alimony of \$2,500.00 each month to begin on April 1, 2006...she is awarded rehabilitative alimony of \$1,500.00 per month for a period of 36 months.” *Id.*

In the divorce, Stephen J. Bellino was represented by attorney Allen Flowers, and Margaret Bellino was represented by attorney Tucker Buchanan. The Chancellor relied upon the financial declarations and related documents submitted by the parties to the divorce. In his Rule 8.05 declaration dated September 27, 2004, Stephen J. Bellino omitted any reference to the mutual funds owned in joint tenancy which were held in the AGE account. See Record, Pages 57-65. Stephen J. Bellino represented to the Court under Exhibit B, Paragraph E of his Financial Declaration:

E. Other Investment (IRA’s stock(s), mutual funds, pension plans, etc.)

Bank/Account Number	Type of Investment	Balance
WAL-MART	401-K	\$203,000
WAL-MART	Stock	131,511
TOTAL VALUE		<u>\$334,511</u>

The AGE account was separate and distinct from the Wal-Mart stock account and Wal-Mart 401k account. The Chancellor’s Memorandum Opinion dated March 30, 2006 did not address the joint tenancy AGE investment account or the mutual funds held therein. In its Memorandum Opinion, the Court awarded the two Wal-Mart accounts to Stephen J. Bellino.

This finding was accurately written into the Final Judgment filed May 2, 2006, which likewise awarded the Wal-Mart accounts to Stephen J. Bellino. See Record, Pages 96-100. As with the Memorandum Opinion, the Final Judgment of Divorce failed to address, award, or distribute the mutual funds held in the AGE account; even though, those joint tenancy mutual funds were marital property. (See *Johnson v. Johnson*, 650 So.2d 1281, 1286 (Miss.1994) (finding that commingled funds, including inheritance, becomes marital property subject to equitable distribution). No separation agreement was ever entered in the Bellino Divorce and the Final Judgment did not mention the terms of the AGE account.

Because the Final Judgment of Divorce failed to address the AGE joint investment account, on June 12, 2006, AGE stated in its letter from the St. Louis, Missouri headquarters to counsel for Stephen J. Bellino that AGE would not permit withdrawals unless so stipulated in the Final Divorce Judgment or Decree. The letter also admits that the AGE account is a “joint account.” See Record, Page 434.

The failure of the May 2, 2006 Final Judgment to address the joint tenancy AGE mutual fund account was known immediately to Stephen J. Bellino and his attorney, Allen Flowers. On May 15, 2006, Stephen J. Bellino filed a Motion to Alter or Amend Judgment, which stated in relevant part, “Steve has been advised by managers of his A.G. Edwards accounts that the Judgment is unclear as to what funds are now owned solely by him. Steve has thus been unable to access funds that are listed as joint accounts.” See Record, Pages 104-106. Stephen’s May 15, 2006, motion relied upon Rule 59 as its sole basis for relief to substantively modify the May 2, 2006 Judgment; however, because Stephen’s motion was filed more than 10 days after the entry of the Judgment of Divorce, the motion was time-barred.

Thus, on November 20, 2006, for a third time Brandon Brooks appeared ex parte before Judge Thomas. At that time, both the Administrator and Brandon Brooks were aware of the failure of the Judgment of Divorce to address the AGE account and AGE's refusal to disburse the joint tenancy mutual fund account; however, in lieu of filing a proper appearance, Motion for Substitution, a proper or timely Rule 59 motion or a proper Rule 60 motion, the Administrator and Brandon Brooks improperly proceeded to obtain the November 20, 2006, Order Dispersing Funds.

This November 20, 2006, ex parte proceeding was without notice to, knowledge of, or consent by Margaret C. Bellino or her counsel, Thomas T. Buchanan as evidenced by the Affidavit of Tucker Buchanan. See Record, Page 445. Furthermore, this ex parte order was never filed with the Forrest County, Mississippi chancery clerk in either the Estate or in the Bellino Divorce. Despite these defects, AGE closed the AGE mutual fund joint account and at the request of Brandon Brooks, delivered the proceeds in the amount of \$140,370.35 to Brandon Brooks, who deposited the funds into the Stephen J. Bellino Estate.

On August 1, 2007, the Administrator belatedly filed an inventory of the Estate, which represented that the Estate is holding the proceeds of the AGE joint tenancy mutual funds totaling \$140,370. See Record, Pages 662-663. In response to that disclosure, on September 12, 2007, Margaret filed a petition in the Estate, claiming the proceeds of the AGE account to which she was justly entitled as surviving joint tenant. See Record, Pages 664-674. The mutual funds held in the AGE joint tenancy account were never properly adjudicated in the Judgment of Divorce.

On February 6, 2008, counsel for the Appellants attempted to circumvent the Mississippi Rules of Civil Procedure by filing a motion for substitution of parties more than a year and a half after the suggestion of death on the record and nearly two years after the Chancellor's Memorandum

Opinion and Judgment of Divorce. See Record, Pages 133-134. Such an untimely filing of that motion demonstrated the Appellants' acknowledgment that the Estate was not a proper party in the divorce case and never had standing therein.

On March 31, 2008, the Appellants filed the Motion to Alter or Amend Judgment pursuant to Rule 60(a) approximately two years after the Chancellor drafted his Final Judgment of Divorce. See Record, Pages 1100-1121. On March 26, 2008, Margaret Bellino filed an Amended Combined Motion for Summary Judgment and Supporting Memorandum of Law to declare that the AGE Mutual Fund Account was a joint tenancy account at the time of the death of Stephen J. Bellino and that Margaret became the sole owner of that account immediately upon Stephen's death by operation of Mississippi law. The Chancellor's judgment on these Motions on April 13, 2009 and confirmed by order on rehearing dated April 29, 2009 formed the basis for this Appeal.

SUMMARY OF THE ARGUMENT

First and foremost, the Appellant's appeal should be denied for continued failure to adhere to the procedural mandates of the Mississippi Rules of Appellate Procedure. The Appellant failed to submit a Statement of the Issues or properly support their case with citations to authority or the record. Further, the Chancellor did not err in the application of Mississippi law to the interpretation of the AGE joint account agreement, or in the determination that Stephen Bellino and Margaret Bellino were joint tenants with rights of survivorship. Because Mississippi law has the "most significant relationship" to the property and parties at issue and pursuant to statute, the Chancellor correctly applied Mississippi law in the evaluation of the parties respective rights and responsibilities to the AGE joint account. According to Mississippi law, the judgment of divorce does not operate as an implied revocation of Margaret Bellino's contractual rights in the joint tenancy account. Because the nature of the joint tenancy account did not change prior to the death of Stephen Bellino on June 18, 2006, the AGE joint funds immediately became the property of Margaret Bellino by operation of law.

ARGUMENT

I. STANDARD OF REVIEW

In reviewing a lower court's grant of summary judgment, this Court employs a de novo standard of review. *Anglado v. Leaf River Forest Prods.*, 716 So. 2d 543, 547 (¶13) (Miss. 1998). Summary judgment "shall be rendered forthwith if the pleadings, depositions, answers to interrogatories and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law." M.R.C.P. 56(c).

The party opposing the motion "may not rest upon the mere allegations or denials of his pleadings, but his response, by affidavits or as otherwise provided by this rule, must set forth specific facts showing that there is a genuine issue for trial." M.R.C.P. 56(e). The entry of summary judgment is mandated if the non-movant "fails to make a showing sufficient to establish an essential element of the claim or defense, then all other facts are immaterial, and the moving party is entitled to judgment as a matter of law." *Galloway v. Travelers Ins. Co.*, 515 So. 2d 678, 684 (Miss. 1987).

II. THE APPELLANT'S BRIEF IS PROCEDURALLY BARRED PURSUANT TO MRAP 28 OR PORTIONS SHOULD BE STRICKEN AS OUTSIDE THE RECORD AND UNSUPPORTED BY CITATION

The Appellant's brief and issues are not properly before this Court. Despite repeated requests by the Clerk of this Court for the Appellant to comply with the procedural requirements of the Mississippi Rules of Appellate Procedure, the Appellant has failed to adhere to the Rules of this Court. Specifically, the Appellant has failed to provide this Court a Statement of the Issues as required by MRAP 28(a)(3), which states,

A statement shall identify the issues presented for review. No separate assignment of errors shall be filed. Each issue presented for review shall be separately numbered in the statement. ***No issue not distinctly identified shall be argued by counsel***, except upon request of the court, but the court may, at its option, notice a plain error not identified or distinctly specified. (emphasis added).

The Mississippi Court of Appeals has stated that issues which are not listed in a Statement of the Issues are “procedurally barred” from presentation, and that Appellant’s who fail in this regard are barred from addressing the issues in the substantive argument section of the brief. *Reed v. State*, 987 So.2d 1054, 1056 (Miss.Ct.App.2008). On another occasion the Court of Appeals has stated that absent “clearly identified issues, there is nothing for this Court to consider or address in an appeal.” *Davis v. J.C. Penney Co., Inc.*, 881 So.2d 969 (Miss.Ct.App.2004)(citing *Giuffria v. Concannon*, 851 So.2d 436 (Miss.Ct.App.2003)). Not only did the Appellants utterly fail to provide a Statement of the Issues, but the Appellant’s likewise ignored the Clerk’s request that the Appellants provide the same. See letter of Clerk attached as **Exhibit A**. This lack of respect for the Rules of this Court should not be tolerated, and pursuant to the precedent above, the Appellant’s brief is procedurally barred.

In addition to the Appellant’s failures to follow the Mississippi Rules of Appellate Procedure, the Appellant likewise fails to properly support their argument with authority or citation to the record. The Appellant cites a mere three cases which, quite honestly, do not provide this Court with any support for the broad arguments made in the brief. In fact, the three cases cited by the Appellants merely identify the standard of law identifying Mississippi case law on joint tenancy with rights of survivorship and judicial estoppel. The Court of Appeals has stressed the importance of citations to

authority and the record in support of an argument. “Rule 28(a)(6) of the Mississippi Rules of Appellate Procedure provides that an argument advanced on appeal ‘shall contain the contentions of appellant with respect to the issues presented, and the reasons for those contentions, with citations to the authorities, statutes, and parts of the record relied on.’” *Sorey v. Crosby*, 989 So.2d 485, 487 (Miss.Ct.App.2008). Failure to comply with this rule “renders an argument procedurally barred.” *Id.* (citing *Birrages v. Ill. Cent. R.R.*, 950 So.2d 188, 194 (Miss.Ct.App.2006)). The Appellants fail to follow the mandates of Rule 28(a)(6) in its argument and therefore, the brief is procedurally barred.

The final paragraph of Page 3 of Appellant’s Brief is outside the record with no cites to the record and should be stricken. Likewise, except for the last paragraph on Page 4, the comments are outside the record with no cites to the record and should be stricken. Finally, the first full paragraph on Page 10 is outside the record with no cites to the record made and it should be stricken. Therefore, the purported facts and arguments based upon them should be stricken pursuant to M.R.A.P. 28.

III. THE CHANCELLOR CORRECTLY DETERMINED THAT THE JUDGMENT OF DIVORCE DID NOT IMPLICITLY REVOKE THE PARTIES RIGHTS IN THE AGE MUTUAL FUND JOINT ACCOUNT

The Chancellor’s equitable distribution of property in the divorce did not end the inquiry of how the AGE Edwards mutual fund joint account was owned at the time of death of Stephen J. Bellino on June 18, 2006. As the Chancellor determined, the distribution did not cause an implied revocation of the contractual status of the funds as set forth by the appellant. See Record, Pages 630-632. The Chancellor found that Stephen J. Bellino elected to create a mutual fund joint account with AGE Edwards by designating Margaret Bellino as a joint tenant of the property. This Joint Account

Agreement dated May 22, 1995 was the last and only direction from Stephen J. Bellino as to the ownership of the AGE account. *Id.* Therefore, Stephen J. Bellino failed to revoke Margaret Bellino's ownership interest in the funds prior to his suicide on June 18, 2006. Thus, the Chancellor found that the AGE joint mutual fund investment account vested in Margaret Bellino as surviving joint tenant immediately upon the death of Stephen J. Bellino. *Id.* The Chancellor's finding is consistent with the Supreme Court rulings in analogous situations involving life insurance contracts and wills of divorced spouses.

The Supreme Court found in *McKnight v. McKnight*, 267 So.2d 315 (Miss. 1972), that in the case of a will, divorce did not "effect an implied revocation" absent some express indication by the testamentary party. Similarly, the Supreme Court decided in *In re Estate of Hodges*, that "divorce alone does not divest one from receiving life insurance proceeds under the former spouse's policy." 807 So.2d 438 (Miss. 2002)(citing *Davis v. Davis*, 301 So.2d 154, 156 (Fla.Dist.Ct.App. 1974). The law requires more than "a mere intent" to change the beneficiary of a policy; it requires "some affirmative action taken by the insured to effectuate the change." *Davis* at 157. The Chancellor correctly found that no such express affirmative action to change the ownership was taken by Stephen J. Bellino to effectuate change of ownership of the AGE account and to end the joint tenancy.

The law required that if Stephen Bellino intended to dissolve Margaret Bellino's contractual interest in the AGE account, then he need to take appropriate affirmative actions to effectuate said change prior to his death. Because Mr. Bellino did not direct change of ownership of the account from joint tenancy with right of survivorship prior to his death, the contractual, joint account agreement of the parties remained the only documentary direction of the account proceeds.

The Appellants argue contradictorily on one hand that "(u)nder Mississippi law the Chancellor has the authority to award Margaret Bellino's interest in the A.G. Edwards account regardless of the contractual agreement." (See Appellant's Brief, Page 8.) (Emphasis added.) On the other hand, the Appellants argue "The A.G. Edwards funds should have never been subject to the contractual agreement... (See Appellant's Brief, Page 9.) The Appellants thus implicitly concede the failure of their argument that "The AGE Joint Account Agreement created a tenants in common account between Stephen and Margaret Bellino." (See Appellant's Brief, Page 6). As the label on the AGE plainly states, as the text of the Agreement states, as AGE plainly wrote to Allen Flowers in June 2006, the AGE account was established and maintained as a joint tenancy account between Stephen and Margaret Bellino. See Record, Page 434. Clearly, Brooks disagrees with the Chancellor's application of Mississippi law to the contractual agreement and without authority merely argues that the ownership of the AGE mutual fund joint account should be "regardless" of or never subject to the AGE Joint Account Agreement which created and controlled the ownership of it.

IV. THE CHANCELLOR CORRECTLY APPLIED MISSISSIPPI LAW AND DETERMINED THE AGE ACCOUNT TO BE A JOINT TENANCY WITH RIGHTS OF SURVIVORSHIP

After a careful review of the joint account agreement, the Chancellor applied Mississippi law and determined that the joint account was a joint tenancy with rights of survivorship and therefore, the joint account funds became Margaret Bellino's immediately by operation of law on the date of Mr. Bellino's death. See Record, Pages 630-632.

Mississippi law recognizes a joint tenancy with rights of survivorship. Accordingly, the Mississippi Supreme Court has said, “a provision for survivorship is strong evidence that a joint tenancy was created.” *Vaughn v. Vaughn*, 118 So. 2d 620, 622 (Miss. 1960). In Mississippi, common law directs that, where survivorship clauses exist in the name of the account itself, in the signature cards, or in a joint account agreement, the courts should enforce them as joint tenancies according to their tenor.” *In re Estate of Cannon*, 733 So.2d 245, 250 (Miss 1999). In an action by an executrix to compel payment of funds held in a joint tenancy account by the decedent and the surviving joint tenant, the Mississippi Supreme Court held:

“ . . . the creator of a joint tenancy with rights of survivorship does not relinquish control of the account, but, rather, divides control with the joint tenant. Each joint tenant manifests a strong interest therein so long as he lives. Immediately at the death of one joint tenant, the decedent's interest vests at that time in the other joint tenant(s).” *Strange v. Strange*, 548 So.2d 1323, 1326 (Miss 1989). *See also Matter of Estate of Bodman v. Bodman*, 674 So. 2d 1245 (Miss. 1996).

Likewise, in *Wallace v. United Mississippi Bank*, the Mississippi Supreme Court held that following the decedent/ husband's death, a bank did not have any right to “set off” against certificates of deposit (CD) issued by the bank to husband and wife jointly to set off amounts owed by the husband on separate promissory notes. The husband/ decedent's interest in the CDs was expired when he died and the wife's right of survivorship could not be compromised without her clear and unequivocal consent. The court found that there was no evidence to override the strong presumption of joint ownership and survivorship. *Wallace v. United Mississippi Bank*, 726 So.2d 578, 584(Miss. 1998). (See also Miss. Code Ann. § 81-5-63). The *Wallace* court explicitly stated, “[I]t is, of course, well settled that survivorship property becomes the property of the survivor, and the joint tenant's estate has no interest in these funds”. *Id.* at 583. Furthermore, the *Wallace* court held that the bank

was guilty of conversion of the wife's funds due to the set off against the joint tenancy CDs after the husband's death. *Id.* at 591.

As joint tenants with full rights of survivorship Stephen J. Bellino's interest in the AGE joint mutual fund account, if any, vested solely in Margaret Bellino as joint tenant and thus, never vested in his estate upon his death. See e.g., *Quin v. Metz (In re Estate of Huff)*, 676 So. 2d 264, 265 (Miss. 1996) (affirming Chancellor's decision that "full ownership of the property covered under the joint tenancy passed to [the surviving joint tenant] upon [deceased joint tenant's] death by operation of the right of survivorship"); See also, *Welborn v. Henry*, 252 So. 2d 779 (Miss. 1971) (ownership interest in property owned as an estate in the entirety with full right of survivorship terminates at death, and the entire title to the property vests in surviving tenant, not the estate of the deceased tenant).

The Appellant cites no law that the Chancellor erred in the application of Mississippi law in determining that the joint account agreement was a joint tenancy with rights of survivorship. Stephen and Margaret Bellino signed a joint account agreement on May 22, 1995, which operated to form a "joint account" with AGE for the purpose of holding shares in joint-stock companies. On the second page of the AGE Joint Account Agreement, the agreement provides: "Unless specified to the contrary below, the joint account will be carried as joint tenants with rights of survivorship and not as tenants in common." See Record, Pages 380-383. Immediately below this statement is a space and line, underneath which is printed "Indicate tenancy if other than joint tenants with rights of survivorship." *Id.* The line was left blank. Even more, Margaret Bellino understood that this joint account was a "joint tenancy" account. See Record, Page 384.

Although the joint account agreement contains a warning labeled “Married Residents of Community Property States,” the warning which protects AGE does not designate a tenancy other than joint tenancy with right of survivorship. Instead, the warning merely states:

“the undersigned acknowledge that although the laws of community property states recognize the right of spouses to agree to hold property in joint tenancy with rights of survivorship, they have been advised to consult their own counsel as Edwards cannot guarantee that the joint tenancy created by this agreement will be recognized by any state. In Louisiana, joint tenancy with rights of survivorship may require court approval. Lacking proper documents demonstrating that the applicable laws of Louisiana have been satisfied, joint accounts in Louisiana will be carried only as tenants in common.”

Based on a plain reading of the text, the Bellinos had the opportunity to specify on a space provided if the account was to be carried as anything other than a joint tenancy with rights of survivorship; however, the parties intentionally left the space **empty**. *Id.* Therefore, the intent of the parties was to create a right of survivorship.

Stephen and Margaret Bellino maintained a residence in the state of Louisiana for less than two years after the AGE joint and mutual fund was created. See Record, Page 365. They moved to Petal, Mississippi in 1997 and resided as citizens of Mississippi in Petal, Mississippi until their divorce in May 2006. The Bellinos were clearly domiciled in Mississippi. Both Stephen and Margaret Bellino exhibited every intent to remain in Mississippi even following the divorce in May 2006.

Mississippi Code Annotated § 91-1- 1 provides: “All personal property situated in this state shall descend and be distributed according to the laws of this state regulating the descent and distribution of such property, regardless of all marital rights which may have accrued in other states, and notwithstanding the domicile the deceased may have been in another state.” Black’s Law

Dictionary defines “chose in action” as “a proprietary right in personam, such as...a share in a joint-stock company.” *Black’s Law Dictionary* (2d. Ed.). As shares in joint-stock companies, the AGE joint and mutual fund investment was the “chose in action” which belonged to Margaret and Stephen Bellino as joint tenants. Under Mississippi law, the AGE mutual fund investment is treated just as any other personal property would be treated. See *Mayo v. Equitable Life Assur. Soc.* 71 Miss. 590, 15 So. 791 (Miss.1894)(the general rule is the situs of a chose in action follows the person of the owner). Therefore, the Chancellor was correct in his determination that the situs of the AGE joint tenancy mutual fund investment account was Mississippi and that Mississippi law governed property held by the owners who are domiciled in Mississippi.

Further, if this Court were to review this issue under a “choice of law” analysis, this Court will find that the Chancellor’s ruling is proper. To determine which state’s law applies, Mississippi utilizes the “center of gravity” test. *Zurich American Ins. Co. v. Goodwin*, 920 So.2d 427, 433 (Miss.2006). The Court, citing *Mitchell v. Craft*, 211 So.2d 509, 511 (Miss.1968), explained:

This doctrine is a rule whereby the court trying the action applies the law of the place which has the most significant relationship to the event and parties or which, because of the relationship or contact with the event and parties, has the greatest concern with the specific issues with respect to the liabilities and rights of the parties to the litigation. *Id.*

With regard to a contracts case, the Court applied the Restatement Second of Conflict of Laws section 188, and balanced the “contacts” of the parties, including place of negotiation, place of performance, location of subject matter of contract, and the domicile of the parties. *Id.* at 435. Of utmost importance for this case, the Court clarified its decision in *Association of Trial Lawyers Assurance v. Tsai*, 879 So.2d 1024 (Miss.2004) to state “the place a contract was issued is irrelevant in choice of law cases.” *Id.*

In reviewing the facts of the case at hand and applying the “center of gravity” test, Mississippi has the “most significant relationship” to the issues and the parties. The fact that the “form” joint account agreement was issued at a branch office in Louisiana is **irrelevant**. The joint-stock owned by the Bellinos did not physically reside in Louisiana; if anywhere, that property was maintained at the AGE headquarters in Missouri. Within two years of creating the AGE account, the Bellinos became domiciled in Mississippi: where they remained for the next eight years of their marriage, where Stephen Bellino perished, and where Margaret Bellino resides today. It is uncontested that the AGE account was substantially performed in the state of Mississippi as property of residents of this state. During the marriage, when funds were sold and/or when assets were removed from the joint account, the monetary disbursement went to the Bellinos at their home in Mississippi. Even more, the divorce action and subsequent equitable division of property was subject to the jurisdiction of Mississippi and a judgment was rendered pursuant to the laws of Mississippi.² Finally, the Estate of Stephen Bellino was created, administered, and is exclusively subject to the laws of Mississippi.

Even more, the AGE account has been submitted to Mississippi law and adjudication by the actions of the Appellants is the three consolidated cases which generated this appeal, namely divorce, estate, and conversion. That is, the Appellants improperly obtained an ex-parte order to satisfy AGE seeking to disburse the AGE funds into the Estate account, which was maintained in Mississippi. AGE did, in fact, adhere to the Order of a Mississippi Court and disbursed the funds to the Estate

² It is entirely inequitable that the Appellant filed a Rule60(a) Motion and sought the Chancellor to disburse the AGE funds in accordance with Mississippi law, yet now, the Appellant is asking this Court to reverse the Chancellor’s application of Mississippi law in the adjudication of the AGE Joint Account Agreement.

in the State of Mississippi. Under a choice of law analysis, Mississippi has the "most significant relationship to this matter" and has the "greatest concern" over the issues. Mississippi law applies, and the Chancellor did not err.

Curiously, the Appellants makes one statement which necessitates special comment. First, the Appellants admit that the Motion to Alter or Amend Judgment which was filed on May 15, 2006 by Steven Bellino's divorce counsel, Allen Flowers, thirteen days after the final judgment of divorce raised the issue of whether the AGE account had been awarded to Steven Bellino. (See Appellant's Brief, Page 3.) As to the AGE account, Steven Bellino's attorney, Flowers, admits that "Steve has thus been unavailable to access funds that are listed as joint accounts." (See Record, Page 105) Furthermore, the Appellants represent to this Court that Allen Flowers dismissed the Motion to Alter or Amend Judgment shortly after it was improvidently filed and shortly after the death of Steven Bellino, by representing to Judge Thomas, "that he would not be going forward with Steve's Motion now that he was deceased." (See Appellant's Brief, Page 4.) Thus, that Motion and the issue raised in that Motion was *res judicata* as of early June 2006 for the following two reasons:

1. The Motion was improvident because it was untimely filed thirteen days after the entry of the judgment and thus barred by M.R.C.P. 59(e), which provides that "a motion to alter or amend the judgment shall be filed not later than 10 days after entry of the judgment." As noted in the comments to M.R.C.P. 59(e), "the Court is not permitted to extend this time period." See *De St. Germain v. De St. Germain*, 2008 WL 711652 (Miss.App.)(acknowledging time limitations of Rules 59 and 60(b)).
2. The untimely motion was voluntarily dismissed.

Thus, because there was no motion to alter or amend the June 2, 2006 judgment and no appeal of it, the issue was res judicata and could not be later brought up by Brandon Brooks or the Estate of Steven Bellino. This bar also applied to appellant's Rule 60(a) motion to correct the purported "clerical mistake" in the Memorandum Opinion and the Final Judgment that omitted reference to the AGE mutual fund account and referenced only "Wal-Mart stock" which was an entirely separate asset.

Brandon Brooks and the Estate of Stephen J. Bellino lack standing to request a modification of the Judgment of Divorce because said Petitioners were never properly substituted for the decedent in the Bellino Divorce and cannot be so substituted. This Rule 60 motion was a direct attack on the Judgment of Divorce rendered in the Bellino Divorce. As it pertains to this cause of action, Defendant Brandon Brooks, as counsel for the Estate, is obviously not a party to the divorce under any theory of the law. Therefore, Brandon Brooks, wholly lacks standing to bring this motion.

Although the Petitioners, Stephen Bellino II and Cristina Bellino, were the heirs at law of the decedent, they lack standing to bring a motion on behalf of the decedent based upon that reason alone. Absent a proper substitution of parties under Mississippi Rule of Civil Procedure 25, the decedent's heirs are **not** parties to the divorce. The Estate lacks standing for failure to comply with the requirements of Rule 25. See Miss. R. Civ. Pro. 25.

The "Appearance" of Brandon Brooks on behalf of the Administrator, Stephen J. Bellino, II in the Bellino Divorce on June 26, 2006, may be viewed as the legal equivalent of the suggestion of the death of Stephen J. Bellino. As such, the Administrator of the Estate and his attorney were required to file a motion for substitution in the Bellino Divorce within ninety days (i.e. by September 23, 2006) or else that case was dismissed as a matter of law pursuant to Rule 25(a)(1). See Miss. R.

Civ. Pro. 25(a)(1) No such substitution or order of substitution being entered, the case was dismissed as a matter of law on September 24, 2006, and all subsequent actions of the Administrator, the Estate, and/or Brandon Brooks were void as a matter of law.

Therefore, neither the Petitioners nor the Estate has standing in the Bellino Divorce because none are a properly substituted party for the decedent, Stephen J. Bellino, and all are precluded from bringing this motion before this Court. The three ex parte Orders Dispersing Funds all purport to be based upon a hearing which was never noticed and were based on the Motion to Alter or Amend which was filed May 15, 2006. The May 15, 2006 motion was filed thirteen (13) days after the entry of the Judgment of Divorce and was time barred because such motions must be filed within ten (10) days.

Brandon Brooks and the Administrator of the Estate, took the position that the Judgment of Divorce had to be substantively altered or amended to distribute the AGE mutual fund account to the estate. Appellants then took a diametrically opposing position and claimed that the Rule 60 motion was not a frontal assault on the Judgment of Divorce, but is a mere clerical error which seeks distribution of property as originally ordered. The Appellants are estopped to bring this flip flop Rule 60 motion and estopped to assert this position under the doctrine of judicial estoppel.

The official comment to MRCP 60(a) highlights the limits of Rule 60(a) as an "efficient method for correcting clerical errors ... errors of a more substantial nature must be corrected in accordance with MRCP 59(e) or 60(b)." (Emphasis added). See Comment to Miss. R. Civ. Pro. 60. Clearly, this rule was not designed to alter the substance of a Court's Judgment, rather, the Court may use this method to correct a scrivener's error or an error of recording by the clerk.

The term "clerical error" is defined as, "An error resulting from a minor mistake or inadvertence, esp. in writing or copying something on the record, and not from judicial reasoning or determination." *Black's Law Dictionary* 243 (2nd pocket ed. 2001) (emphasis added). An example of scrivener's or clerical error would be where a court entered an opinion which found an award of \$20,000.00 but the judgment order entered erroneously stated \$2,000.00. Unlike that prototypical example of a clerical mistake, the Court in the instant case, clearly awarded Stephen J. Bellino what he requested and what he represented under oath in his Rule 8.05 affidavit, namely his Wal-mart 401k account and Wal-mart stock. Again, Stephen J. Bellino and anyone claiming under him are barred by the doctrines of "unclean hands" and judicial estoppel from now claiming these Wal-mart accounts should really be both Wal-mart accounts and the separate AGE mutual fund joint account. Having played the shell game at trial and being awarded the asset he named, Stephen J. Bellino and those claiming through him are judicially and equitably estopped to claim any error which requires or deserves equitable relief. Both Stephen J. Bellino through his mislabeling of accounts and the Appellants herein who likewise claimed the AGE account was part of the Wal-mart "profit sharing 401(k) account" and obtained two ex parte orders pursuant to that claim are the poster children for "unclean hands" and judicial estoppel.

The Mississippi Supreme Court has acknowledged that Rule 60(a) "can only be utilized to make the judgment or other document speak the truth; it cannot be used to make it say something other than was originally pronounced." *Whitney National Bank of New Orleans v. Smith*, 613 So.2d 312, 315 (Miss. 1993)(citing *West Va. Oil & Gas Co. v. Breece Lumber Co.*, 213 F.2d 702 (5th Cir. 1954). Rule 60(a) may not be utilized to change the effect of a previous judgment. *Id.* at 316. To do otherwise, deprives Margaret Bellino of due process.

In *Smith*, a Circuit Court Judge improperly granted an ex parte order amending a prior ruling of the Court. The Supreme Court affirmatively stated that such conduct "egregiously offends all notions of due process and acceptable conduct." *Id.* at 313. Furthermore, the Supreme Court found this to be an abuse of discretion because the amendment of the prior order was provoked by improper, ex parte information, and the proper avenue for modification was Rule 60(b). *Id.* at 316.

Eerily similar to the facts of *Smith*, Brandon Brooks, on behalf of the Administrator, obtained three ex parte Orders Dispersing Funds based upon his ex parte communication with the Chancellor, who granted the Estate possession of the AGE account funds despite the plain language in the Judgment of Divorce, despite complete lack of notice of hearing, despite failure of substitution of parties and absent any proper or timely motion. The Appellants now bring this belated attack on the Judgment to rectify prior errors. Like *Smith*, this conduct "egregiously offends all notions of due process and acceptable conduct." *Id.*

In the Rule 60(b) motion, the Appellants contend that use of the term "Wal-Mart Stock account" was a mere clerical error which was inadvertently transcribed on the record in both the Memorandum Opinion and the Judgment of Divorce. The Appellants would further have this Court believe that in correcting this "error," the Judgment of Divorce would become a complete and final distribution of all property in the Bellino Divorce. This is simply not true.

By altering the original pronouncement of the Judgment under the theory of a "clerical mistake," i.e. having "Wal-Mart Stock account" be read as "A.G. Edwards joint tenancy mutual fund account," this Court would not achieve a final distribution of property. As evident in the financial declarations of Margaret Bellino and Stephen J. Bellino, the WalMart stock and the joint tenancy AGE account were two separate accounts, identified by separate account numbers and managed by

separate entities (mutual funds managed by AGE and Wal-Mart Stock managed by Wal-Mart Stores, Inc.). Therefore, this Court, in its Judgment of Divorce, failed to adjudicate the AGE account as an item of property in the Bellino Divorce. The omission of the joint tenancy AGE account from its final decree is not clerical error, but rather, is a substantive mistake of fact.

The Mississippi Supreme Court recently decided a similar situation in *R.N. Turnbow Oil Investments v. McIntosh*. 873 So. 2d 960 (Miss. 2004). In that case, the heirs of McIntosh brought an action against Turnbow's successors to amend a Judgment from a previous case between McIntosh and Turnbow. Therein, McIntosh was granted mineral rights/interests on particular pieces of real property. *Id.* However, in the previous case, the Chancellor failed to list all parcels that McIntosh would have an interest in his Judgment, even though all parcels were evident in the exhibits of the case. *Id.*

Although brought as a separate action, the Supreme Court examined this matter under Rule 60(a) and found that the failure of the Chancellor to acknowledge all the parcels of real property in his decree was not a clerical mistake under Rule 60(a) *Id.* The Court explained that such an error does not fairly meet the definition of "clerical error" or the use contemplated in Rule 60(a); an omission of property from a decree is not a "minor mistake." *Id.*

McIntosh parallels the case at issue. Although the Appellants couch their argument as a clerical error, the relief actually sought is anything but minor. Changing this Court's Judgment and Memorandum to pronounce something entirely different than was originally stated, would drastically alter the substance of the Judgment and give this Court's ruling a different effect. To grant the Petitioner's relief would be a contradiction of Mississippi law as set forth in *McIntosh*.

The issues raised herein could only be addressed by a proper party in a Rule 59 or 60(b) motion; however, only if done so within six months from the date the Judgment was entered, i.e. by November 2, 2006. See Miss. R. Civ. Pro. 60(b). The Appellants are essentially seeking relief based upon a mistake of fact in the Judgment. As noted in *McIntosh*, the Court's failure to acknowledge property in a decree is not a clerical mistake, but could have been considered by this Court as a mistake under Rule 60(b)(2). *McIntosh* at 843.

The Rules contemplate a mistake of fact in a judicial decree under Rule 60(b)(2), and allow only a certain amount of time to bring on motion on such an issue. A Rule 60(b)(2) Motion must be brought within six months from the date the Judgment is entered. *Id.* The rules are rigid in this regard, and a motion made after this six month window are timebarred. The Mississippi Court of Appeals noted:

Post-judgment time limits pursuant to the rules of procedure are both mandatory and jurisdictional. *Telford v. Aloway*, 530 So. 2d 179, 181 (Miss. 1988). (Emphasis added).

Rule 60(b) motions that are an attempt to relitigate the previously decided case should be denied. *Stringfellow v. Stringfellow*, 451 So. 2d 219, 221 (Miss. 1984). The remedy provided under Rule 60(b) "is not a means for those who had procedural opportunity for remedy under other rules and failed, without cause, to pursue such avenues." *R.K. v. J.K.*, 946 So. 2d 764, 776 (.. 35) (Miss. 2007).

Considerations for determining a motion for relief pursuant to Rule 60(b) include: (1) that final judgments should not be lightly disturbed; (2) that the Rule 60(b) motion is not to be used as a substitute for appeal; (3) that the rule should be literally construed in order to achieve substantial justice; (4) whether the motion was made within a reasonable time; (5) [relevant only to default judgments]; (6) whether if the judgment was rendered after a trial on the merits the movant had a fair opportunity to present his claim or defense; (7) whether there are any intervening equities that would make it inequitable to grant relief; and (8) any other factors relevant to the justice of the judgment under attack.

Netterville v. Weyerhaeuser Co., 963 So.2d 38, 41-42 (Miss.App.,2007). Although the actual parties to the Bellino Divorce may have had a viable claim that the Chancellor erred in omitting and failing to distribute the AGE account, time for modification or correction has long since expired as a matter of law. See *Smith* at 316.

Aware of this fact, the Appellants enter this matter as interlopers seeking substantive modification of this Court's Judgment based upon Rule 60(a); thus, essentially the Appellants are asking this Court to disregard the limitations of the Mississippi Rules of Civil Procedure.

The Appellants purport to base their motion on new evidence, learned after the divorce decree, in the form of an affidavit of Stephen Bellino II. A motion to modify a Judgment on this ground is also contemplated by Rule 60(b). See Miss. R. Civ. Pro 60(b)(3). As with Rule 60(b)(2), motions under Rule 60(b)(3) must be brought no later than six months after the entry of the Judgment. *Id.*

In the affidavit of Stephen J. Bellino, II (which should be stricken because it is hearsay and states facts not in evidence), Stephen Bellino II acknowledges that the value of the Wal-Mart Stock account was not fully determined until after his appointment as Administrator of the Estate of Stephen J. Bellino, which occurred two months after the entry of the Judgment of Divorce. Stephen Bellino II also acknowledges notice of a substantive mistake in the judgment as early as July 2006, well-within the six month deadline allotted by Rule 60(b). Despite this, Stephen Bellino II, as Administrator of the Estate, failed to obtain a substitution of parties in the Bellino Divorce, and failed to raise these issues until March 31, 2008. As a result, the Appellants were barred for lack of standing, and by the time limitation in Rule 60(b). See Miss.R.Civ.Pro. 60(b). Any action by the Chancellor on that Motion was beyond his jurisdiction.

The Chancellor correctly interpreted Mississippi precedent and ordered that the AGE funds, as a joint tenancy with rights of survivorship pursuant to the last direction of the parties, became the sole property of Margaret Bellino at the time of the death of Stephen Bellino by operation of law. Accordingly, the Chancellor did not commit manifest error, and thus, the ruling of the lower court should be affirmed.

V. JUDICIAL ESTOPPEL IS INAPPLICABLE

The Appellant asserts that Margaret Bellino's claim for the AGE funds is barred by judicial estoppel. Essentially, the Appellant argues that Margaret Bellino has taken opposing positions in this matter which have offered some gain for an "opportunistic flip." This is simply untrue and is contrary to Mississippi Law. While it is true that Margaret Bellino's initial Motion to Amend erroneously referred to the AGE account as a "tenants in common account," the reality is at the time, Margaret Bellino was not in possession of the Joint Account Agreement with AGE and made a mistake of fact. Even more clear, once Margaret obtained the agreement and became aware of the true nature of the account, Margaret filed a voluntary dismissal of the Motion to Alter stating that such document was based "upon a mistake of fact" and was promptly abandoned without prosecution of her claims and prior to any response or opposition. See Record, Pages 480-481.

None of these facts meet the three elements of judicial estoppel. The doctrine of judicial estoppel exists to safeguard the judicial process from parties using intentional self-contradiction to gain an unfair advantage. *Browning Mfg. v. Mims*, 179 F. 3d 197, 205 (5th Cir.1999). The Mississippi Supreme Court explained, "judicial estoppel precludes a party from asserting a position, benefitting from that position, and then, when it becomes more convenient or profitable, retreating from that position later in the litigation." *Dockins v. Allred*, 849 So. 2d 151, 155 (Miss.

2003). Margaret Bellino gained no benefit from the mistaken Motion to Alter, and in fact, she promptly and voluntarily dismissed that action when the mistake of fact was realized. Such prudent and forthright conduct does not amount to judicial estoppel.

Finally, it is of note that this issue was not raised in the Appellant's belated Rule 60(a) Motion or the Motion to Reconsider or the Chancellor's April 13, 2009 Order, both of which are the underlying pleadings giving rise to this Appeal. Thus, Appellant's argument on judicial estoppel is barred because it is raised for the first time on appeal.



CONCLUSION



Therefore, in light of the above and foregoing facts and points of law, the Court should affirm the Order of the Chancellor.


Respectfully submitted, this th10 day of March, 2010.

MARGARET C. BELLINO, APPELLEE

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CERTIFICATE OF SERVICE

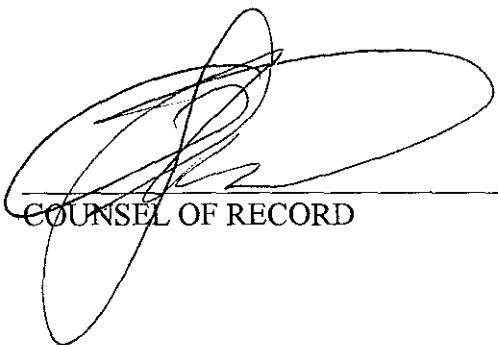
I, the undersigned, do hereby certify that I have this day filed this APPELLEES' BRIEF with the Clerk of the Court and have served a copy of this on the following persons at these addresses:

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This 10th day of March, 2010.



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January 5, 2010

To: Brandon LaRuc Brooks
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Re: Stephen J. Bellino, Jr. v. Margaret Bellino
Supreme Court Case No. 2009-CA-00785

We have received your Appellant's Brief in the above styled case. Please provide the document(s) listed below by January 12, 2010:

The Statement of Issues which should have been page 1 of the brief

Need one additional copy of Appellant's Brief and Record Excerpts.

Please forward a correctly formatted CD-R or flash drive in pdf/Adobe. See amended MRAP 28(m). The one we received contained another case.

Thank you.


CLERK

/vnf

cc: Counsel of Record/Parties ProSe

EXHIBIT #
A