

**IN THE SUPREME COURT OF MISSISSIPPI  
CAUSE NO. 2009-CA-01602**

**KEVIN BUCKEL**

**APPELLANT**

**VERSUS**

**INSURANCE COMMISSIONER MIKE CHANEY**

**APPELLEE**

**BRIEF OF APPELLANT**  
(Oral Argument Requested)

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**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 the Justices of the Supreme Court and/or the Judges of the Court of Appeals may evaluate possible disqualification or recusal.

1. Honorable Dwayne Thomas, Chancellor, Chancery Court of Hinds County
2. Insurance Commissioner Mike Chaney, Appellee
3. Lisa L. Colonias, Esq., Attorney for Appellee
4. Kevin Buckel, Appellant
5. Edward Gibson, Esquire, Hawkins, Stracener & Gibson, PLLC, Attorney for Appellant
6. Attorney General Jim Hood

  
Edward Gibson  
Attorney of record for Appellant

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### **STATEMENT REGARDING ORAL ARGUMENT**

Appellant requests oral argument as he believes that it could be helpful to this Court in fully understanding the issues before it. The issues regarding the Mississippi Public Records Act of 1983 and the duties of the Insurance Commissioner are novel and have not been addressed by this Court.

### **STATEMENT OF THE ISSUES**

1. Whether a genuine dispute of material fact exists regarding the Mississippi Insurance Department's possession of the data described in its Press Releases and Market Conduct Exam;
2. Whether Appellant's initial public records request included the examination documents; and
3. Whether the examination documents are exempt by statute.

## STATEMENT OF THE CASE

### **A. Course of Proceedings Below**

Appellant (hereinafter referred to as "Buckel"), originally submitted a public records request to Appellee Commissioner of Insurance Mike Chaney (hereinafter referred to as "the Commissioner") of the Mississippi Department of Insurance ("MID") on or about January 4, 2009. R. 1:000013. Receiving no response, Buckel resubmitted the request on January 16, 2009. R. 1:00010-000011. On or about January 26, 2009, Buckel received notification that the Commissioner did not have possession of the requested documents. R. 1: 000007-000009. Aggrieved, Buckel, proceeding *pro se*, filed what is in essence Complaint for Declaratory Relief on or about February 25, 2009, in Harrison County Chancery Court, *Buckel v. Chaney*, Cause No. C2401-09-00373-2. R. 1;000004-000006. The Court issued summons and Buckel effected service upon the Appellee (hereinafter referred to as the Commissioner) R.1; 00019-000020. On April 1, 2009, the Commissioner, through counsel, filed his Answer and Affirmative Defenses (R. 1: 000023-000028) and thereafter, on April 15, 2009, filed its Motion for Summary Judgment with accompanying briefs and papers. R. 1: 000033-000061. Buckel responded to the Motion for Summary Judgment on April 30, 2009. R. 1: 000063-000137. On May 1, 2009, the Commissioner filed his rebuttal. R. 2:000139-000147. Then, the Defendant filed a Supplemental Brief, objecting to the venue of Harrison County Chancery Court. R. 2:000151-000153. The parties agreed to a transfer of venue, and Chancellor Alfonso entered an Agreed Order to that effect. R. 2:000162-000164. The case was transferred to Hinds County Chancery Court as *Buckel v. Chaney*, Cause No. 2009-CA-01602. Chancellor of Hinds County Chancery Court Honorable DeWayne Thomas listened to oral argument on the Commissioner's Motion for Summary Judgment on August 31, 2009, and ruled from the bench in favor of the Commissioner. Tr. 21-22. Thereafter, Chancellor Thomas entered an Order granting the



Commissioner's Motion for Summary Judgment.

**B. Statement of the Facts**

Following Hurricane Katrina, the Mississippi Insurance Department (hereinafter referred to as "MID") conducted — pursuant to Miss. Code Ann. § 83-5-201 *et seq.* — an examination of State Farm Fire and Casualty's claims handling procedures. R. 1:00089.<sup>1</sup> The MID appointed MID employee Jimmy Blissett as "Examiner in Charge" to conduct the examination. R. 1:00081. The Market Conduct Exam states that, "This examination was performed by examiners, adjusters, and attorneys appointed by the Commissioner of Insurance of Insurance and in accordance with his statutory authority as referenced above." R. 1:00089.

The Market Conduct Exam states that,

The examination team **requested a complete list of homeowner claims** filed with any State Farm company between August 29, 2005 and October 31, 2006 by policyholders residing in the six lower counties of Mississippi (Hancock, Harrison, Jackson, Pearl River, Stone, and George. The Company **provided a list of 43,054 claims**. Various analytical and statistical testing was performed on the date files provided. R. 1:00096(emphasis added).

The MID adopted the report as final on October 17, 2008. R. 000081.

On January 16, 2009, Buckel, with knowledge that the MID had in its possession the information referenced in the Market Conduct Examination, made a public records request pursuant to the Mississippi Public Records Act of 1983 ("Public Records Act") upon the Commissioner.

Therein, Buckel stated:

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<sup>1</sup> See the MID Special Target Examination of State Farm Insurance Companies—Hurricane Katrina Homeowner Claims ("Market Conduct Exam") stating:

a Special Target Examination was being called to commence immediately to investigate how State Farm treated its policyholders who had filed claims as a result of Hurricane Katrina. More specifically, and in accordance with the Commissioner's instructions, the scope of the examination was to investigate the handling of homeowner claims in the lower six counties of Mississippi, specifically: Hancock, Harrison, Jackson, George, Pearl River, and Stone, filed as a result of Katrina. R.1:00089.

This is to request any data in the possession of MID concerning homeowner insurance claims as a result of Hurricane Katrina, excluding Wind Pool and Flood Claims (1) [the] total number of homeowner claims filed after the storm[;] (2) [t]he total "insured amount claimed" filed by homeowners after the storm[;] (3) the total amount paid out on those homeowner claims after the storm [; and] (4) the total amount "not paid" on homeowner claims after the storm. R.000013.

He renewed his request on January 16, 2009. On January 26, 2009, the legal department of the MID responded stating that the "records you have requested are not in the possession of the Mississippi Insurance Department." R. 000008.

Thereafter, Buckel filed suit. R. 000004 *et seq.* In support of his position, Buckel attached the Market Conduct Exam. The Commissioner filed his Answers and Affirmative Defenses, stating again that the records sought were not in the possession of the MID and alternatively that Miss. Code Ann. § 83-5-209(7) provided a statutory exemption to the Public Records Act.<sup>2</sup> Thereafter, the Commissioner filed Motion for Summary Judgment, Memorandum and accompanying exhibits, submitting the same arguments detailed in its Answers and Affirmative Defenses. R. 000033 *et seq.* Among its accompanying exhibits, the Commissioner provided an affidavit of Donna Cromeans stating that the MID did not have the documents requested.

Buckel responded. R. 000063 *et seq.* As to the MID's claim that it was not in possession of the requested documents, Buckel provided in response the MID's Market Conduct Exam which states to the contrary: that the MID requested claims information and that State Farm provided information of 43,054 claims. In addition, Buckel submitted a press release from the MID, stating:

In the three hardest hit coastal counties, over 141,000 claims have been filed, with over \$1.3 billion paid in claims in those counties alone. In Jackson County there have been over 44,000 claims filed and over \$310 million in claims paid. In Hancock County there have been over 24,000 claims filed and \$216 million in claims paid. In Harrison County there have been over 72,000 claims filed and over \$744 million in claims paid. These figures do not include flood claims. R. 1:000131.

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<sup>2</sup> For reasons discussed below, it is important to note that Miss. Code Ann. § 83-5-209(7) is the only state statutory basis for any affirmative defense. The Commissioner did not raise any exemption or protection afforded by the Public Records Act.

Another MID Press Release attached by Buckel stated that the “approximate total for claims paid in those six counties totaled \$4,953,798,538.00”. R. 1:000131.

As to the Defendants’ claim that the records requested was exempted by statute, Buckel contended, “The Material Sought Is Not Specifically Excepted from the Mississippi Public Records Act.” R. 000068.

At a hearing on the merits, counsel for the MID, contrary to the statements contained in the Market Conduct Exam and contrary to the findings of facts issued by the MID Departmental Order adopting the report, stated, “The Insurance Department does not have the files. And the information — the statistics that Mr. Buckel refers to were provided by a national data call. They never completed these statistics. They simply received them from a national data call and put them on the website.” Tr. 8-9. Contrary to the findings of fact in the MID’s own Order, which named employee Blissett as the “Examiner in Charge” the MID stated in Court that

Whatever documents that may have been retained as a result by some examiner doing the—and they typically—they’re not even Mississippians. I mean, these people who he would contracted with to do market conduct exam they are people who may have come from around the country. I don’t know who he hired.” Tr. 13.

At the conclusion of oral argument, the Court granted summary judgment. Tr. 22. Thereafter, on September 2, 2009, the Court executed the Order prepared by the Commissioner, finding that: (1) no genuine issue of material fact, that would support Buckel’s claims; (2) neither the Commissioner nor the MID possession the data requested by Buckel; (3) “any documents obtained in connection with an Examination which are the subject of Kevin Buckel’s demand in his Complaint, and have never been the submit of a proper public records request are nonetheless protection under Miss. Code Ann. § 85-5-209(7).” R. 000165-000166.

Aggrieved, Buckel now appeals this Order.

## **SUMMARY OF THE ARGUMENT**

The Commissioner did not prove to Chancery Court that no genuine issue of material fact existed as to the MID's possession of the documents sought. Respectfully, the Chancery Court erred as a matter of law in finding as much. The only evidence submitted by the Commissioner was a self-serving affidavit prepared and executed by a MID employee, stating that the records sought did not exist. In rebutting the position that the MID did not have the records sought, Buckel provided three documents, each generated by the MID: the Market Conduct Report and two press releases which either stated or inferred that the MID was in possession of precisely the recorded data sought by Buckel.

Moreover, the Order entered by the Chancellor infers that the records request was not specifically tailored to seek the documents which Buckel requested the MID produce in his Complaint. This issue was never addressed in Court or the filings presented to the Court. This finding is contrary to the inclusive nature of the request and violates the stated public policy of the Public Records Act. Finally, Buckel respectfully submits that the Chancery Court erred as matter of law in finding that disclosure of the records was exempt under the Miss. Code Ann. §83-5-209(7). The Public Records Act does not exempt, does not foresee and does not authorize government officials to disclose records or not at its discretion.

## **ARGUMENT**

### **I. The Trial Court Erred in Finding that No Genuine Dispute of Material Facts Existed As to Whether the Commissioner Had Possession Over The Records Requested.**

#### **A. Standard of Review**

The Supreme Court reviews a trial court's grant of summary judgment *de novo*. *Smith ex rel. Smith v. Gilmore Memorial Hospital, Inc.*, 952 So. 2d 177. A Chancery Court's grant of summary

judgment is reviewed de novo. *In re Guardianship of Duckett*, 991 So. 2d 1165, 1173 (Miss. 2008).

This Court should review this grant of summary judgment *de novo*.

**B. A Genuine Issue of Material Fact Existed as to the MID's Possession of the Documents Subject to the Public Records Request.**

Under Fed. R. Civ. P. 56(c), summary judgment is appropriate only 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 judgment as a matter of law. *Adickes v. S.H. Kress & Co.*, 398 U.S. 144, 157 (1970); *Celotex Corp. v. Catrett*, 477 U.S. 317 (1986); *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242 (1986); *Hunt v. Cromartie*, 526 U.S. 541, 549 (1999). The initial burden is on the moving party to identify those portions of the record that demonstrate that there is no evidence to support the non-movant's case and that, as a matter of law, the moving party must prevail. *Celotex Corp.*, 477 U.S. at 323, 325 (1986). The movant also has the burden of persuasion. This burden is a stringent one which always remains with the moving party. *Id* at 477 U.S. 317, 330-33; *Adickes*, 398 U.S. at 157-61. This Court has held that, "Summary judgment should be sparingly granted, especially in non-jury chancery court proceedings where little if any more time would be required to hear the case." *Merritt v. Magnolia Federal Bank For Savings*, 573 So. 2d 746, 749 (Miss. 1990).

The evidence presented to the court is always construed in favor of the party opposing the motion. *Matshushita Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574 (1986). The court is not to make credibility determinations, weigh evidence, or draw inferences from the facts for the movant. *Anderson*, 477 U.S. at 255. The evidence of the non-movant is to be believed and must receive the benefit of the doubt when his assertions conflict with those of the movant. All justifiable inferences are to be drawn in his favor. *Id* at 255. The court may give credence to the evidence supporting the

moving party only if that evidence is uncontradicted and unimpeached and comes from disinterested witnesses. *Reeves v. Sanderson Plumbing Prods. Inc.*, 530 U.S. 133, 150-151 (2000). In other words, the court must consider the entire record, but “disregard all evidence favorable to the moving party that the jury is not required to believe.” *Thomas v. The Great Atlantic and Pacific Tea Company, Inc.*, 233 F.3d 326 (5th Cir. 2000).

In order to defeat a motion for summary judgment, it is not necessary for the non-moving party to prove its case. A party opposing summary judgment need only point to the existence of a genuine issue of material fact for trial. *Gee v. Principi*, 289 F.3d 342, 345 (5th Cir. 2002). “[S]ummary judgment is improper when the plaintiff has advanced enough circumstantial evidence to take her claims out of the realm of ‘mere conjecture’ and plant them in the solid ground of ‘reasonable inference’.” *Thomas*, 233 F.3d at 330; *Thornbrough v. Columbus & G.R. Co.*, 760 F.2d 633, 641 n.8 (5th Cir. 1985). This Court urges great caution in granting summary judgment. *Gilmore Memorial Hospital*, 952 So. 2d. 177, 178.

“[T]he material fact required by Rule 56(c) to be present to entitle a party to proceed to trial is not required to be resolved conclusively in favor of the party asserting its existence; rather all that is required is that sufficient evidence supporting the claimed factual dispute be shown to require a jury or judge to resolve the parties’ differing versions of the truth at trial.” *First Nat. Bank of Ariz. v. Cities Service Co.*, 391 U.S. 253, 288-289 (1968); *Thornbrough* at 633 F.2d at 647-648 (5th Cir. 1985) (summary judgment inappropriate where non-movant had produced a “thin vapor” of evidence sufficient for a reasonable jury to draw a contrary inference sufficient to create a dispute as to a material fact). “Although summary judgment is a useful device, it must be used cautiously or it may lead to drastic and lethal results.” *Murrell v. Bennett*, 615 F.2d 306, 309 (5th Cir. 1980). *See also*, *Jackson v. Cain*, 864 F.2d 1235, 1241 (5th Cir. 1989).

In the instant case, the Commissioner relied solely upon a self-serving affidavit of MID employee to substantiate its claim that the records sought by Buckel did not exist. To the contrary, Buckel provided the Court the Market Conduct Exam and two press releases. The Market Conduct Exam specifically stated that the data Buckel sought had been “requested” by the MID and had been “provided” by State Farm. R. 1:000096. Moreover, Buckel submitted two press releases which discussed, in part, some of the information which Buckel sought, namely the total amount paid out to homeowners after the storm. The figures are quoted with such accuracy — citing, in one instance, the billions of dollars paid to the precise dollar (R. 1:000131) — that it is only reasonable to infer that the data Buckel sought was available to the former Commissioner when the statements were made. It is simply not credible to believe that the former Commissioner either guessed at the figures or recalled the figures from memory based on the data provided from a third party source.

Nevertheless, the Chancellor clearly awarded some credence to the affidavit of the Commissioner, finding that the MID was not in possession of the information which Buckel sought. As cited above, the United States Supreme Court has ruled in *Reeves* that the trial judge is not to weight the credibility of the evidence; to the contrary, where any credibility of the movant’s evidence presented is at issue, the evidence should be disregarded.

For these reasons, Buckels respectfully submit that the trial court erred in its finding that no genuine issue of material fact existed and that the MID did not possess the documents sought in the public records request.

## **II. Whether the Public Records Act is Inclusive of the Data Sought By the Complaint.<sup>3</sup>**

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<sup>3</sup> Although never specifically addressed by any party in either the Court papers or in the hearing, the Order granting summary judgment reads in part that, “Any documents obtained in connection with an Examination, which are the subject of the [the Appellant’s] demand in his Complaint **and have never been the subject of a proper public records request**, are nonetheless protected under Miss.

For the reasons stated above, the Court should review this issue *de novo*. The stated policy of the Public Records Act states in pertinent part that, "It is the policy of this state that public records shall be available for inspection by any person unless otherwise provided by this chapter; furthermore, providing access to public records is a duty of each public body." Miss. Code Ann. §25-61-2.

Buckel made a request upon the MID for **any** records relevant to his inquiry which sought information regarding the claims made, the claims paid and the portion of claims unpaid. R. 1:000013. The Complaint identified specific information which the Market Conduct Exam identified as a list 43,054 claims. R. 000005. The Complaint also alluded to the information disclosed in the one of the two press releases. R. 000006. In concluding the *pro se* Complaint, Buckel stated, "WHEREFOR[E] plaintiff prays and seeks judgment from this [C]ourt for MID to act in accordance of MDOI 83-1 and fulfill its obligation to [Appellant's] request for disclosure of all documents in possession of MID what would complete this request for information." *Id*

It cannot be reasonably disputed that the documents which Buckel seeks in his Complaint are entirely different from those that are requested in the public record request. Indeed, it is clear that the records sought by the Complaint is that subset of the records requested: those which Buckel knew to exist by virtue of the Market Conduct Exam and the press releases of former Commissioner Dale.

Moreover, while Buckel concedes that his initial public records request was overreaching in that it requested that the MID create record, it cannot otherwise be construed as an improper request. Considering the public policy mandates of the Public Records Act, *i.e.*, that records shall be

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Code Ann. §85-5-209(7). To the extent that the Court found that the Appellants' public records request was improper or otherwise did not comport with the relief sought by his request, that issue is addressed here out of an abundance of caution.



provided and that it is the duty of the public body to provide them, it would be against policy to reject Buckel's request as a matter of form.

For these reasons, Buckel respectfully requests that this Court reverse the finding—if any—that Buckel's public records request was an improper request in form and content.

### **III. Whether the Records Requested Are Subject To a Public Records Request.**

#### **A. Standard of Review**

Questions regarding jurisdiction and statutory construction are questions of law which we review *de novo*. *Loveless v. City of Booneville*, 972 So.2d 723, 731 (Miss. App., 2007). In reviewing interpretations of the Public Records Act (or any statute), the Supreme Court reviews the issue *de novo*. *Mississippi State v. People for the Ethical Treatment of Animals, Inc.*, 992 So. 2d 595, 606 (Miss. 2008). The Court should review the interpretations of the statutes discussed below *de novo*.

#### **B. Where a Statute is Clear, the Court Must Give the Statute Its Plain Meaning.**

This Court has ruled on countless occasions that, "The most fundamental rule of statutory construction is the plain meaning rule, which provides that if a statute is not ambiguous, then this Court must apply the statute according to its terms." *State ex rel. Hood v. Madison County Board of Supervisors*, 873 So.2d 85, 90 (Miss. 2004). The Court has concluded that, "When a statute is unambiguous, this Court applies the plain meaning of the statute and refrains from the use of statutory construction principals." *Gilmer v. State*, 955 So.2d 829, 833 (Miss. 2007). Moreover, the *Gilmer* Court concluded that "The court may not enlarge or restrict a statute where the meaning of the statute is clear." *Id.* The Mississippi Court of Appeals, recognizing the principles of statutory construction recently opined that "when a court considers a statute passed by the Legislature, the first question before the Court is whether the statute is ambiguous. If the statute is not ambiguous, the court should interpret and apply the statute according to its plain meaning without the aid of

principles of statutory construction.” *Fields v. State*, 17 So.3d 1159 (Miss.App. 2009)(citations omitted). Regarding the construction of statutes, this Court has opined:

An exception cannot be created by construction, when none is necessary to effectuate the legislative intention. Ordinarily, an exception must appear plainly from the express words or necessary intendment of the statute. Where no exception in positive words is made, the presumption is the legislature intended to make none. *State v. Heard*, 151 So. 2d 417, 420 (Miss. 1963).

Regarding the Public Records Act, the Mississippi Court of Appeals has held that “any questions of disclosure must be construed liberally, while a standard of strict construction must be applied to any exceptions to disclosure.” *Harrison County Development Commission v. Kinney*, 920 So. 2d 497 (Miss. 2006)(citing *Mississippi Department of Wildlife, Fisheries and Parks v. Mississippi Wildlife Enforcement Officers' Association, Inc.* 740 So.2d 925, 936 (Miss.1999)).

Buckel herein contends that the Public Records Act is clear and unambiguous as to the limitations under which public records need not be disclosed. Moreover, this law read in conjunction with the laws governing the disclosure of records held by the Mississippi Insurance Department are not ambiguous and require disclosure of the information sought by Buckel.

**C. The Statutory Exception for Non-Disclosure Under the Public Records Act Is Not Satisfied by Miss. Code Ann. §83-5-209(7).**

The Mississippi Public Records Act of 1983 states that “It is the policy of this state that public records shall be available for inspection by any person unless otherwise provided by this chapter.” Miss. Code Ann. §25-61-2. The pertinent portion of the Act regarding access to public records reads, “Except as otherwise provided by Sections 25-61-9 and 25-61-11, all public records are hereby declared to be public property, and any person shall have the right to inspect, copy or mechanically reproduce or obtain a reproduction of any public record of a public body.” Miss. Code Ann. §25-61-5. Miss. Code Ann. §25-61-11 states:

The provisions of this chapter shall not be construed to conflict with, amend, repeal or supersede any constitutional or statutory law or decision of a court of this state or the United States which at the time of this chapter is effective or thereafter specifically declares a public record to be confidential or privileged, or provides that a public record **shall be exempt** from the provisions of this chapter. (emphasis added).

By comparison, the statute relied upon by the Commissioner reads

All working papers recorded information, documents and copies thereof produced by obtained by or disclosed to the commissioner or any other person in the course an examination made Sections 83-5-201 through 83-5-217 **may be held** by the commissioner as a record not required to be made public under the Mississippi Public Records Act. Miss Code Ann. §83-5-209(7)(emphasis added).

The Mississippi Public Records Act of 1983 creates only two exceptions. One, created by Miss. Code Ann. §25-61-9<sup>4</sup> is inapplicable in this instance as the Commissioner never raised it as an objection or defense to the disclosure of the statistical records sought by Buckel. The second, described above, provides a ground for withholding what is otherwise a public record where such disclosure is **mandatorily prohibited** by another statute. That is not the case in this instance. In this instance, Miss. Code Ann. §83-5-209(7) describes a discretionary function assigned to the Commissioner. This is clearly not envisioned, anticipated or permitted by the Public Records Act. The Act as created by the legislature permits the records to be withheld only by statute of this state, or the United States. Under the Public Records Act, laws, not the ministers of government determine when records may be withheld.

For these reasons, Buckel respectfully requests that the Court reverse the ruling of the lower court, finding that the records requested are not exempt from disclosure under the Public Records

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<sup>4</sup> Miss. Code Ann. §25-61-9 prohibits a public body from disclosing trade secrets or proprietary information provided to a public body by a third party. Although there may be some colorable argument that the information sought could be protected from disclosure under Miss. Code Ann. §25-61-9, the Commissioner never raised such a defense or objection in its Motion for Summary Judgment, accompanying papers (R.000033-000061) or at the hearing on the merits (Tr. *passim*).

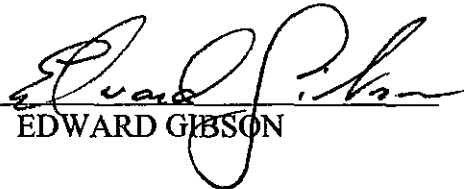
Act.

CONCLUSION

For the reasons submitted herein, Buckel respectfully request that the Court reverse the Chancery Court's Order and remand the action to the Chancery Court of Hinds County, Mississippi for proceedings consistent with this Court's ruling. Specifically, Buckel respectfully requests that the Court find as a matter of law that a genuine issue of material fact existed as to whether the Commissioner or the MID had possession of the documents requested. Moreover, Buckel respectfully requests that the Court find that Buckel made a "proper" public records request upon the MID and the Commissioner and finally, that the under the clear language of the Public Records Act, the data sought by Buckel is not exempted by either the Public Records Act or Miss.Code Ann. §85-3-209(7).

Respectfully submitted, this the 24<sup>th</sup> day of February, 2010,

APPELLANT, KEVIN BUCKEL

BY:   
EDWARD GIBSON

**CERTIFICATE OF SERVICE**

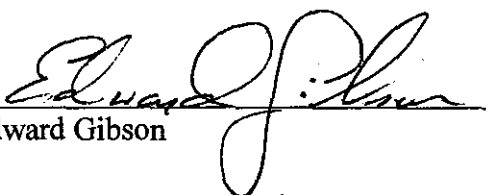
I, Edward Gibson, do hereby certify that I have on this date caused to be served via U.S. Mail, postage prepaid, a true and correct copy of the above and foregoing to all counsel and parties of interest as indicated below:

Honorable Dwayne Thomas  
Chancellor, Chancery Court of Hinds County  
Post Office Box 686  
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SO CERTIFIED, this the 24<sup>th</sup> day of February, 2010,

  
Edward Gibson