

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

REBECCA CONLIFF

APPELLANT

v.

CASE NO. 2009-CA-01803

WALTER HUDSON

APPELLEE

**APPEAL FROM THE CHANCERY COURT OF MADISON COUNTY,
MISSISSIPPI, CHANCELLOR JANACE HARVEY-GOREE**

REPLY BRIEF OF APPELLANT

ORAL ARGUMENT IS NOT REQUESTED

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CERTIFICATE OF INTERESTED PERSONS

**SUPREME COURT OF MISSISSIPPI
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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.

Rebecca Conliff, Defendant below, Appellant here.

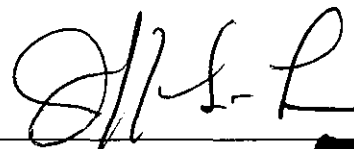
Walter Hudson, Plaintiff below, Appellee here.

Honorable Janace Harvey-Goree, Madison County Chancellor

K. F. Boackle, Esquire, Attorney for Appellant

Jeffrey L. Lee, Esquire, Attorney for Appellant

John W. Christopher, Esquire, Attorney for Appellee



Jeffrey L. Lee, MS Bar No. [REDACTED]
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TABLE OF CONTENTS

	PAGE
I. CERTIFICATE OF INTERESTED PERSONS	i
II. TABLE OF CONTENTS	ii
III. TABLE OF AUTHORITIES	iii
IV. REBUTTAL TO ISSUE 4 RESPONSE OF APPELLEE'S BRIEF	1

TABLE OF AUTHORITIES

CASES

	PAGE
<i>Croenne v. Irby</i> , 492 So.2d 1291 (Miss. 1986)	2
<i>Lee Hawkins Realty, Inc. V. Phillip W. Moss, et al.</i> , 724 So. 2d 1116 (Miss. 1998)	2

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REPLY BRIEF OF APPELLANT

COMES NOW, Rebecca Conliff, Appellant, (hereinafter "Conliff"), by and through the undersigned counsel, and files this her Reply Brief in response and rebuttal to Appellee's Brief and would address for this Honorable Court the following issue, TO WIT:

ISSUE NUMBER 4:

In his brief, Walter Hudson states that "Conliff fails to cite any authority in support of her position, therefore she is procedurally barred from presenting this issue." Hudson argues that Conliff's Brief on this one issue fails to comply with Mississippi Rule of Appellate Procedure Rule 28 (a)(6), which requires that Conliff's argument contain "citations to authorities, statutes and part of the record relied on." Conliff disagrees with Hudson's position. Even if Hudson were correct about Conliff's argument on this one of four issues, Conliff's **argument** is the entirety of her argument, including Issues 1, 2, 3, and 4. Conliff has certainly complied with the Rule as her argument contains citations to authority, statute and the record. Furthermore, Hudson has apparently ignored the record citations in Issue 4 of Conliff's Brief.

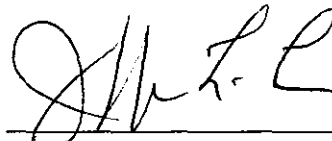
On Page 15 of Conliff's brief, Conliff cites both the Amended Complaint and the

Chancellor's Ruling – both part of the Record of this appeal. Furthermore, Conliff's argument is that the Chancellor's ruling is clearly erroneous. As Conliff's argument is that the Chancellor committed manifest error on a factual issue, it must be supported by the facts of this instant case, not case law. Therefore, record cites are of more assistance to this Court than case citations would be. Conliff does however, invoke the manifest error standard of review on Issue 4, the standard discussed earlier in her brief. (Appellant's Brief at 4.) Conliff stated in her Brief, "[T]he standard of review of a chancery court's orders is the substantial evidence/manifest error standard. *Croenne v. Irby*, 492 So.2d 1291, 1294 (Miss. 1986); also, *Lee Hawkins Realty, Inc. v. Phillip W. Moss, et al.*, 724 So.2d 1116 (Miss. App. 1998) wherein it is said that a reviewing court will accept a chancellor's findings of fact so long as the evidence in the record reasonably supports those findings, and will not disturb the findings of a chancellor unless they are clearly erroneous or a clearly erroneous legal standard was applied. *Id.* This standard of review was intended to apply to manifest error in Issue 4 just as it does in Issue 1, 2, or 3.

Given that Conliff had already stated the standard of review, that her argument on Issue 4 was that the Chancellor had committed manifest error in her ruling on the actual land granted to Hudson, and that Conliff cited directly to the record in her discussion of Issue 4, this Court should find Hudson's argument that Conliff failed to comply with MRAP 28(a)(6) not well taken. However, out of an abundance of caution, Conliff uses this reply brief to amend her Issue 4 argument. In her reply brief, Conliff restates her argument on Issue 4, but includes the case law above and thus incorporates the clearly erroneous standard into her Issue 4 argument.

As to the other three issues raised by Conliff in her brief, Conliff rests on the argument already presented.

Respectfully submitted,



JEFFREY L. LEE
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CERTIFICATE OF SERVICE

I, Jeffrey L. Lee, do hereby certify that I have, this day, delivered, a true and correct copy of the above and forgoing REPLY BRIEF OF APPELLANT to:

Honorable Janace Harvey-Goree
MADISON CHANCERY COURT JUDGE
Post Office 39
Lexington, MS 39095

John W. Christopher
750 Avignon Drive, Suite 3
Ridgeland, MS 39157-5299

This the 6th day of August, 2010.



Jeffrey L. Lee
Attorney for Appellant