

**IN THE SUPREME COURT OF MISSISSIPPI**

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2009-CA-02009

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APAC-TENNESSEE, INC.

DEFENDANT-APPELLANT/CROSS-APPELLEE

V.

ETHAN BRYANT, ET AL

PLAINTIFF-APPELLEES/CROSS-APPELLANTS

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**PARTIAL JOINDER OF CHAD MCCARTY AND EVERYTHING WHOLESALE, LLC  
IN BRIEF OF APPELLEES/CROSS-APPELLANTS ETHAN BRYANT, ET AL**

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**ORAL ARGUMENT REQUESTED**

H. Richmond Culp, III (MSB # [REDACTED])  
Mitchell, McNutt & Sams, P.A.  
Attorneys At Law  
105 South Front Street  
Post Office Box 7120  
Tupelo, Mississippi 38802  
(662) 842-3871

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**APAC-TENNESSEE, INC.**

**APPELLANT/CROSS-APPELLEE**

**V.**

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**ETHAN BRYANT, ET AL**

**APPELLEES/CROSS-APPELLANTS**

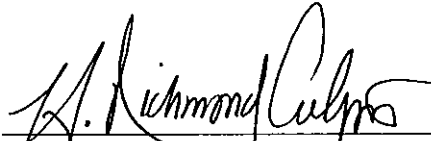
**CERTIFICATE OF INTERESTED PERSONS**

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 or the Judges of the Court of Appeals may evaluate possible disqualification or recusal:

1. Ethan Bryant, a minor, and Carey and Kateri Bryant, Plaintiffs in the action below;
2. Robert R. Morris, III, Paul R. Scott, Richard T. Phillips and Jason Nabors from the firm of Smith, Phillips, Mitchell, Scott & Nowak, counsel for Plaintiffs;
3. APAC-Tennessee, Incorporated and its corporate representatives at trial; Julie Arick and Nick Haynes;
4. William O. Luckett, counsel for Defendant APAC-Tennessee, Inc.;
5. Brian L. Yoakum, the Biller Law firm, counsel for Defendant APAC-Tennessee, Inc.;
6. William F. Goodman, Jr., Mark D. Jicka, and J. Collins Wohner, Jr. of Watkins and Eager, PLLC, counsel for the Defendant APAC-Tennessee, Inc.;

7. Chad McCarty, trial Defendant;
8. Everything Wholesale, LLC, trial Defendant;
9. H. Richmond Culp, III, counsel for Chad McCarty and Everything Wholesale, LLC;
10. Jim Hood, Mississippi Attorney General;
11. National Union Fire Insurance Company of Pittsburgh, PA, insurer for APAC-Tennessee, Inc.; and
12. United Financial Casualty Company/Progressive Insurance, insurer for Everything Wholesale, LLC and Chad McCarty.

Respectfully submitted,

A handwritten signature in cursive script, reading "H. Richmond Culp, III", is written over a horizontal line.

H. Richmond Culp, III (#7936)  
Mitchell, McNutt & Sams, P.A.

## **TABLE OF CONTENTS**

Certificate of Interested Persons.....	ii
Partial Joinder .....	1
Certificate of Service.....	3

## **PARTIAL JOINDER**

COME NOW Appellees Chad McCarty and Everything Wholesale, LLC, by and through their counsel of record, and pursuant to Rule 28(i) of the Mississippi Rules of Appellate Procedure, assert their partial joinder in the Brief of Appellees/Cross-Appellants Ethan Bryant, et al.

Chad McCarty and Everything Wholesale, LLC were trial defendants in this action tried before a jury in the Circuit Court of Desoto County, Mississippi. Chad McCarty and Everything Wholesale, LLC are not aggrieved by the Final Judgment of the Circuit Court of Desoto County in this civil action. Trial defendants, Chad McCarty and Everything Wholesale, LLC, further believe that the trial court's ruling on post-trial motions were, and are, correct in all respects. Believing that the judgment below should be affirmed in all respects and for the purposes of judicial economy and avoidance of duplicative filings, Chad McCarty and Everything Wholesale, LLC join in, as if in words and phrases fully restated, the statement of facts and summary of argument for paragraphs I, II, III, and IV filed on behalf of Ethan Bryant, et al. Chad McCarty and Everything Wholesale, LLC further specifically adopt and join in, as if in words and phrases fully restated, the argument of Ethan Bryant, et al, including:

- I. The Verdict Was the Result of a Fair Trial.
- II. APAC Was Negligent.
- III. Under Tennessee Law, McCarty Was An Employee of APAC.
  - A. Tennessee Law Was Correctly Applied.
  - B. The Jury Properly Found That McCarty Was an Employee.

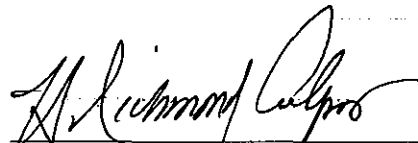
IV. New Trial Is Not Warranted.

- A. The Jury Was Properly Instructed.
- B. The Allocation of Fault Was Appropriate.
- C. Insurance Was Properly Excluded.
- D. Dane Maxwell's Testimony Was Proper.

Chad McCarty and Everything Wholesale, LLC do not join in Section V of the Brief of Appellees/Cross-Appellants Ethan Bryant, et al. Specifically, Chad McCarty and Everything Wholesale, LLC believe that the trial court properly applied Mississippi Code Annotated §11-1-60.

Wherefore, trial defendants/appellees, Chad McCarty and Everything Wholesale, LLC, respectfully request that this Court affirm the Final Judgment of the court below, the same being supported by a unanimous verdict of the citizens of Desoto County, Mississippi and supported in all respects by adequate evidence and merited applications of the law to the facts. Because all parties to the litigation were provided a fair trial on the merits, Chad McCarty and Everything Wholesale, LLC join partially in the Brief of Appellees/Cross-Appellants Ethan Bryant, et al, and respectfully request that this Court affirm the judgment below in all respects.

Respectfully submitted, this the 14<sup>th</sup> day of March, 2011.

  
H. RICHMOND CULP, III

ATTORNEY FOR THE DEFENDANTS:

H. Richmond Culp, III (MSB # [REDACTED])  
Mitchell, McNutt & Sams, P.A.  
Attorneys At Law  
105 South Front Street  
Post Office Box 7120  
Tupelo, Mississippi 38802  
(662) 842-3871

**CERTIFICATE OF SERVICE**

I, H. Richmond Culp, III, one of the attorneys for the defendant, do hereby certify that I have this day served a true and correct copy of the above and foregoing **Partial Joinder of Appellees Chad McCarty and Everything Wholesale, LLC in Brief of Appellees/Cross-Appellants Ethan Bryant, et al** on counsel of record by placing said copy in the United States Mail, postage prepaid, addressed as follows:

Robert R. Morris, Esquire  
Smith, Phillips, Mitchell,  
Scott & Nowak  
Post Office Drawer 1586  
Batesville, Mississippi 38606

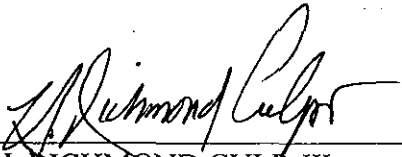
William O. Lockett, Jr., Esquire  
Lockett Tyner Law Firm  
Post Office Drawer 1000  
Clarksdale, Mississippi 38614-1000

Brian L. Yoakum, Esquire  
The Biller Law Firm  
6000 Poplar Avenue, Suite 250  
Memphis, Tennessee 38119

Mark D. Jicka, Esquire  
William F. Goodman, Jr., Esquire  
J. Collins Wohner, Jr., Esquire  
Watkins & Eager, PLLC  
Post Office Box 650  
Jackson, Mississippi 39205

Honorable Robert P. Chamberlin, Jr.  
Desoto County Circuit Judge  
Post Office Box 280  
Hernando, Mississippi 38632

DATED, this, the 17<sup>th</sup> day of March, 2011.

  
H. RICHMOND CULP, III