

IN THE SUPREME COURT OF THE STATE OF MISSISSIPPI

JOSEPH DAVIS, JR.

APPELLANT

VERSUS

NATIONWIDE RECOVERY SERVICE, INC.

APPELLEE

NO. 2009-CP-00492

**APPEAL FROM THE CIRCUIT COURT OF HARRISON COUNTY,
MISSISSIPPI, SECOND JUDICIAL DISTRICT**

APPELLANT'S REPLY BRIEF

ORAL ARGUMENT REQUESTED

**JOSEPH DAVIS, JR., PRO SE
PRO SE (COUNSEL OF RECORD)
346 FRANKS DRIVE
BILOXI, MISSISSIPPI 39531
TEL: (228) 388-6985**

ORAL ARGUMENT REQUESTED

Giving Glory to Jehovah God, Jesus Christ, and The Holy Ghost, If it pleases the Court, I, Joseph Davis, Jr., Appellant, Pro Se, am requesting Oral Argument to prevent any furthering of the manifest injustice that has been occurring in my case.

I am requesting Oral Argument to respectfully present the Relevant Evidence and Facts that are omitted from the Original Appeal Record by the opposing counsel and the lower trial court some of which is attached to the Record Excerpts of the Appellant, Joseph Davis, Jr., Pro Se, **In the Addendum to the Record Excerpts, In the form of Exhibits "A" through "D"**.

(These are recently located file copies from my personal records but there still are many pleadings, facts, notarized relevant evidence filed/stamped in the Original Appeal Record that was transmitted to the Mississippi Supreme Court on June 7, 2000, by Deputy Circuit Court Clerk, Second Judicial District, Ella Lock, for Circuit Court Clerk, Gayle Parker. The Circuit Court Copy was signed out and not returned by the opposing Lawyer, Ms. Maria M. Cobb).

The Appellant, Joseph Davis, Jr. Pro Se, filed a Motion for Transmission of Original Item From Trial Court, to the Mississippi Supreme Court on December 31, 2009, pursuant to Rule 12, of the Mississippi Rules of Appellate Procedure and also made a request for a comprehensive investigation of the Circuit Court, In the Second Judicial District, Harrison County Mississippi, Gulfport, Mississippi for the Original Appeal Record.

The Appellant, Joseph Davis, Jr., Also, requested in the Rule 12 Motion, for a thorough research and investigation of the Archives In the Supreme Court of the State of Mississippi regarding the “Appeal Records of the Original Appeal of the Case” that was forwarded to the Supreme Court of Mississippi, by the now deceased Ms. Ella Lock, Deputy Clerk, of Circuit Court, Second Judicial District Harrison County, Mississippi, Gulfport, Mississippi 39502, to the then, Clerk of the Supreme Court, State of Mississippi, Betty W. Sephton, Jackson, Mississippi 39205-0249, (a copy of this letter dated June 7, 2000, is on File in the Appellants Record Excerpts, of the Appellant’s Brief at, **Exhibit - B** filed December 31, 2009) with the present , Clerk of the Supreme Court, State of Mississippi, Ms. Kathy Gillis, Jackson, Mississippi 39205-0249, on December 31, 2009.

The Rule 12, Motion for Transmission of Original Item from Trial Court filed pro Se by Appellant asks for a comprehensive investigation of the Harrison County Circuit Court and the State Archives concerning the content of the record in this appeal was denied by, Justice, Jess H. Dickinson, In the Supreme Court of Mississippi, on January 21, 2010. The denial of the Appellant, Joseph Davis, Jr., Pro Se, RULE 12 Motion is causing further misrepresenting of the facts by the prior lawyers for the Defense, Maria M. Cobb and Randall Scott Wells and the trial court(s).

The Appellant, Joseph Davis, Jr., Pro Se, prays that the Supreme Court of the State of Mississippi grant Oral Argument so that the Relevant Evidence in this case and the Original Appeal may be presented properly by the Appellant and the court can “do justly” and prevent any further injustice and injury to the Appellant, Joseph Davis, Jr.

Joseph Davis, Jr., Appellant, Pro Se

IN THE SUPREME COURT OF THE STATE OF MISSISSIPPI

JOSEPH DAVIS, JR.

APPELLANT

VERSUS

DOCKET NO. 2009-CP-00492

NATIONWIDE RECOVERY SERVICE, INC.

APPELLEE

CERTIFICATE OF INTERESTED PERSONS

The undersigned, Joseph Davis, Jr., Appellant, Pro Se, Counsel of Record certifies that the following listed persons have an interest in the outcome of the case. These representations are made in order that Justices of the Supreme Court and/or the Judges of the Court of Appeals may evaluate possible disqualifications or recusal.

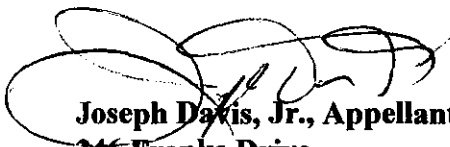
1. Appellant, Joseph Davis, Jr.
2. Joseph Davis, Jr., Pro Se, Counsel of Record for the Appellant
3. **Lawyer Jason Graeber, of the Sheehan Law Firm, 429 Porter Avenue, Ocean Springs, Mississippi 39564, Presently serving as Lawyer for the Appellee, Nationwide Recovery Service, Inc.**
4. Attorney Brent M. Bickham, original Attorney for the Appellant
5. Attorney La Quetta M. Golden, 12311 Ashley Drive, Gulfport, Ms 39503, (past) Attorney for the Appellant

- 6. Lawyer Randall Scott Wells, of the Rushing & Guice, P. L. L. C. Law Firm, 604 Porter Avenue, Ocean Springs, Ms 39564 Attorney for the Appellee**
Former Home Address: 345 Franks Drive, Biloxi, Ms 39531 across the street from the Appellant.
7. Lawyer Maria M. Cobb, of the Rushing & Guice, P.L.L.C., Law Firm, 604 Porter Avenue, Ocean Springs, Ms 39564, Attorney for the Appellee
8. Lawyer Lauren Sonnier, of the Rushing & Guice, P.L.L.C., Law Firm, 604 Porter Avenue, Ocean Springs, Ms 39564, Attorney for Lawyer Randall Scott Wells, of the Rushing and Guice Law Firm, Attorney for the Appellee
9. Lawyer, Edgar F. Maier, of the Rushing & Guice, P. L. L. C., Law Firm, 604 Porter Avenue, Ocean Springs, Ms 30564, Attorney for the Appellee
- 10. Lawyer (former, County Court Judge, Danny Guice, Harrison County, Mississippi, of the Rushing & Guice, P.L.L.C., Law Firm, 604 Porter Avenue, Ocean Springs, Ms 39564, Lawyer for the Appellee**
11. Lawyer William Lee Guice, III, of the Rushing & Guice., P.L.L.C., Law Firm, 604 Porter Avenue, Ocean Springs, Ms 39564, Lawyer for the Appellee
- 12. Lawyer John M. Roper, Jr., of the Rushing & Guice, P.L.L.C. Law Firm, 604 Porter Avenue, Ocean Springs, Ms 39564, Lawyer for the Appellee**
- 13. Lawyer Samuel L. Tucker, Pascagoula, Ms**
- 14. County Court Judge, Gaston H. Hewes, Jr., Second Judicial District, Harrison County, Mississippi, Biloxi Mississippi**

- 15. Circuit Court Judge Kosta N. Vlahos, (retired) Circuit Court Judge, Second Judicial District, Harrison County, Mississippi**
- 16. Circuit Court Judge Lisa P. Dodson, Circuit Court Judge, Second Judicial District, Harrison County, Mississippi, Biloxi, Mississippi**
17. Biloxi Public School District, Biloxi Public School Board, Board of Trustees
18. Larry D. Drawdy, Retired, Superintendent, Biloxi Public School District (Retired)
19. Paul A. Tisdale, Biloxi Public School District, Director, Administrative Services
(Replaced Larry Drawdy, as Superintendent, Biloxi Public School District) still serving
20. Robert W. Bowles, Deputy Superintendent, Biloxi Public School District (allowed to retire)
- 21. Jude McDonnell, Comptroller/ Director of Business Management Biloxi Public School District (allowed to retire)**
22. Patti Golden, School Board Attorney (terminated) Biloxi Public School Board, (Replaced by Lawyer Gerald Blessey)
23. Richard F. Stewart, President, Biloxi Public School Board (Resigned for conflict of interest)
Replaced by David Blaine, Vice-President, Biloxi Public School Board
24. David Blaine, former President, Biloxi Public School Board
- 25. Kenny Holloway, (present) President, Biloxi Public School Board (Brother of Mayor A...J. Holloway)**
- 26. A. J. Holloway, (present) Mayor, City of Biloxi**
- 27. Gerald Blessey (Past Mayor of Biloxi and Past School Board Attorney) Biloxi Public School District, Biloxi Public Board, Board of Trustees**

- 28. Bonnie Granger, Comptroller, Biloxi Public School District**
- 29. Shane Switzer, (present) Comptroller, Biloxi Public School District**
30. Andrea Petro (Past Principal Popps Ferry Elementary School and Past Principle Lopez Elementary School, Biloxi Public School District
31. Janice Wilson, (Past Assistant Principal, Popps Ferry Elementary School with Principal, Andrea Petro), presently serving as Curriculum Department head for Paul A Tisdale, Superintendent, Biloxi Public School District
32. Susan Brand, (Past Principal, Beauvoir Elementary School, Biloxi Public School District) Presently working asa counselor in the Biloxi Public School District
33. Circuit Court Judge Robert H. Walker, Second Judicial District, Harrison County, Mississippi, P. O. Box 235, Biloxi, Mississippi 39530 (Presently serving as U. S. District, Magistrate Judge, Southern District)
- 34. U. S. District Magistrate Judge John M. Roper, Sr., Southern District**
- 35. Mississippi Supreme Court Judge Ishee, Presently sitting Judge In The Supreme Court of the State of Mississippi**
- 36. Circuit Court Judge Roger T. Clark, (present) Circuit Court Judge, Second Judicial District, Harrison County, Mississippi, P. O. Box 235, Biloxi, Mississippi 39530**

Respectfully Submitted, This the 5th Day of April 2010.



Joseph Davis, Jr., Appellant, Pro Se
346 Franks Drive
Biloxi, Mississippi 39531
(228)388-6985

TABLE OF CONTENTS

| | Page |
|--|-------|
| Oral Argument Requested | |
| Certificate of Interested Persons..... | I, iv |
| Table of Contents..... | v |
| Table of Authorities..... | vi |
| Statement of the Issues..... | 1,2,3 |
| Statement of the Case..... | 4,5 |
| Statement of the Facts..... | 6 |
| Argument..... | 7,8 |
| Summary Argument..... | 9,10 |
| Conclusion..... | 11 |

TABLE OF AUTHORITIES

**ALSO REFER TO
RECORD EXCERPTS
TAB/EXHIBITS**

CASES

Joseph Davis, Jr. v. Nationwide, Inc., 797 So. 2d 929 (Miss. 2001).....TAB 2

Montgomery v. Montgomery, 759 So. 2d 1238, 1240 (Miss. 2000).....TAB 2

**City of Alliance v. Lexington Township Board of Trustees,
Case No. 2009-CA-00193, Court of Appeals, Stark County, Ohio,
Fifth Appellate District, (Ohio, December 21, 2009).....PAGES 1,2,4,8**

STATEMENT OF THE ISSUES

The Appellant's Reply Brief is submitted in Response to the Brief of Appellee, Nationwide Recovery Service, Inc., dated February 17, 2010. I, Joseph Davis, Jr., Appellant, Pro Se, am entitled by law and fact to relief from the Order, **dated March 3, 2009, Ordered and signed by Circuit Court Judge Lisa P. Dodson, affirming the Order filed on February 8, 1999, denying the rule 60(b) Motion of Appellant, Joseph Davis, Jr.**

The Trial Court Erred to the prejudice of the Appellant by incorrectly applying the correct standard of review in the Order. City of Alliance v. Lexington Township Board of Trustees, Case No.2009-CA-0093, Court of Appeals, Stark County, Ohio, Fifth Appellate District, (Ohio, December 21, 2009).

The Standard of Review In The Supreme Court of Mississippi Mandate, To the Harrison County Circuit Court 2nd Judicial District, Supreme Court Case #2000-CP-00036-SCT, Trial Court Case #A2402-9900192, Joseph Davis, Jr., v. Nationwide Recovery Service, Inc., Reversed and Remanded. Appellee taxed with costs of appeal. Witnessed, the Honorable Edwin Lloyd Pittman, Chief Justice of the Supreme Court of Mississippi; also the signature of the Clerk and the Seal of said Court hereunto affixed, in the City of Jackson, on April 19, 2001. Please refer to TAB 2, Record Excerpts of The Appellant, Filed in the Supreme Court of Mississippi on December 31, 2009, See Paragraph 2 of the Mandate from the Supreme Court of Mississippi, it states, **"Our standard of review for evaluating the denial of a motion for relief from judgment is abuse of discretion. Montgomery v. Montgomery, 759 So. 2d 1238, 1240 (Miss. 2000)"**

The Trial Court erred as a Matter of Law when it ordered the Court to approve an Order when the Appellee never assigned as error from the appeal that was filed by the Appellant the Findings of Facts contained in the Appeal and therefore, the court improperly substituted its judgment for that of the lower court to the prejudice of the Appellant. City of Alliance vs. Lexington Township Board of Trustees, Case No. 2009-CA-00193, Court of Appeals, Stark County, Ohio, Fifth Appellate District, (Ohio, December 21, 2009).

Please Note: The following “Statement of the Issues” is excerpted from the Appellant’s Brief that was filed in the Supreme Court of The State of Mississippi on, January 23, 2010.

I

The Appellant, Joseph Davis, Jr., Pro Se, has filed a copy of the Original Brief of the Appellant, that was filed in the Supreme Court of the State of Mississippi, on the 18th Day of July 2000, Cause No: A2000-CP-00036, Nationwide Recovery Service, Inc. Versus Joseph Davis, Jr., Pro Se, Appellant, In The Supreme Court of Mississippi Court of Appeals of the State of Mississippi.

Please refer to the Appellant’s Record Excerpts filed in the Supreme Court of the State of Mississippi on, December 31, 2009, in support of this Appellant’s Brief, Exhibit “D”Page 9.

II

The Appellant, Joseph Davis, Jr., Pro Se am filing this same original Brief of the Appellant that was reviewed by the Supreme Court of the State of Mississippi (12 Supreme Court Judges) that was forwarded to the Supreme Court of the State of Mississippi, on June 7, 2000, by Ms. Ella Lock, Deputy Clerk Circuit Court, Second Judicial District, Harrison County Mississippi, to: Honorable Charlotte B. Williams, Supreme Court Clerk, P. O. Box 249, Jackson, Mississippi 39205.

Please refer to the Appellant's Record Excerpts filed in the Supreme Court of the State of Mississippi on, December 31, 2009, in support of this Appellant's Brief, Exhibit "B".

STATEMENT OF THE CASE

I, Joseph Davis, Jr., Appellant did appeal the denial of the Rule 60(b) Motion on March 4, 1999 and also filed an original Brief and Record of Appeal. The Original Brief was mailed on July 18, 2000. Please see Exhibit "A" of Appellant's Record Excerpts, filed in The Supreme Court, December 31, 2009, Letter of Receipt concerning Oral Argument, signed by Stephen J. Kirchmayr, Supreme Court of Mississippi Court Administrator, dated February 2, 2001. Also, refer to Exhibit "B" Transmittal letter, dated June 7, 2000, from Ms. Ella Lock, Deputy Clerk, Circuit Court, Second Judicial District, Gulfport, Mississippi 39502 sending the Original Appeal Record to Honorable Charlotte B. Williams, Supreme Court Clerk, P. O. Box 249, Jackson, Mississippi 39205, RE: The Original complete Appeal Record, Nationwide Recovery Service, Inc. Number:A2402-99-00192 v. Joseph Davis, Jr. The trial court erred in its conclusion, because the record indicates that the Appeal was perfected by the Appellant and forwarded to the Mississippi Supreme Court and was reviewed by the Court. The Supreme Court properly remanded the matter but the Circuit Court erred in its conclusion and in the Order of March 3, 2009 signed by Circuit Court Judge Lisa P. Dodson.

See City of Alliance v. Lexington Township Board of Trustees, Case No. 2009-CA-00193, Court of Appeals, Stark County, Ohio, Fifth Appellate District, (Ohio, December 21, 2009).

Please Note: The following “Statement of the Case” is excerpted from the Appellant’s Brief that was filed in the Supreme Court of the State of Mississippi on, January 23, 2010.

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Please refer to the Appellant’s Record Excerpts filed in the Supreme Court of the State of Mississippi on, December 31, 2009, in support of this Appellant’s Brief, Exhibit “B”.

STATEMENT OF THE FACTS

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ARGUMENT

I

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Please refer to the Appellant's Record Excerpts filed in the Supreme Court of the State of Mississippi on, December 31, 2009, in support of this Appellant's Brief, Exhibit "B".

For the foregoing reasons above the opinion and conclusion of the Circuit court should be denied according to law, See case City of Alliance v. Lexington Township Board of Trustees, Case No. 2009-CA-00193, Court of Appeals, Stark County, Ohio, Fifth Appellate District, (Ohio, December 21, 2009), and consistent with this opinion cited and the Supreme Court of the State of Mississippi's prior opinion Reversing and Remanding the Supreme Court Case#2000-CP-00036-SCT, Joseph Davis, Jr., v. Nationwide Recovery Service, Inc. On April 19, 2001. See TAB 2, Appellant's Record Excerpts filed in the Supreme Court of Mississippi, on December 31, 2009.

ARGUMENT SUMMARY

I

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Please refer to the Appellant's Record Excerpts filed in the Supreme Court of the State of Mississippi on, December 31, 2009, in support of this Appellant's Brief, Exhibit "B".

In accordance with the provisions of Rule 60 (b), of the Mississippi Rules of Civil Procedure and as substantiated and proven by the Relevant Evidence and the Issues of Material Fact in the Original Brief of The Appellant that was filed In The Supreme Court of the State of Mississippi on July 18, 2000, as evidenced in Exhibit "A" of the Appellant's Record's Excerpts, filed In The Supreme Court of the State of Mississippi on December 31, 2009 fraud has been committed by Lawyer Randall Scott Wells in this case and it constitutes a gross abuse of process.

CONCLUSION

In conclusion I, Joseph Davis, Jr., Pro Se, Appellant, have submitted the necessary relevant evidence in the Records Excerpts to be granted relief in these proceedings, Please refer to Tab 7, of the Appellants Record Excerpts Bank of America conducted an investigation on the Bank of America account# 4734-4024-0807-1081, based upon the Appellant's Letters July 5, 1997.

Based upon Bank of America's investigation, and their letter dated August 11, 1997 (TAB - 7) the Judgment was removed from my Credit Files by Equifax Credit Information Services, please refer to Exhibit "D", In the Appellants Records Excerpts July 23 1997 and deleted from the credit File.

The Appellant, Joseph Davis, Jr., Pro Se, is still seeking justice in this case and seeking relief to be granted **consistent with the original ruling of the Mississippi Supreme Court in the Mandate dated Filed/Stamped April 23, 2001, Supreme Court Case # 2000-CP-00036-SCT, Joseph Davis, Jr., v. Nationwide Recovery Service, Inc.**

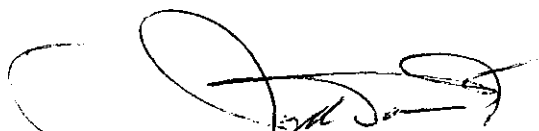
I am being denied justice.

AFFIDAVIT

STATE OF MISSISSIPPI

COUNTY OF HARRISON

Personally appeared before me, the undersigned authority in and for the above-mentioned state and county the within named Joseph Davis, Jr., Plaintiff/Appellant, who, being by me first duly sworn, states on oath that he has executed the above and foregoing Appellants' Reply Brief and the information is true and correct to the best of his knowledge and belief.



Joseph Davis, Jr., Pro Se

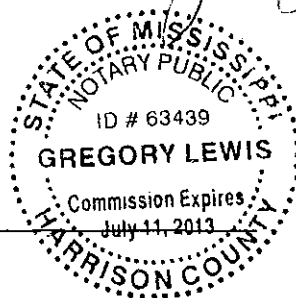
GIVEN UNDER MY HAND AND OFFICIAL SEAL, this the 5TH Day of April 2010.



Notary Public

My Commission Expires:

7/11/2013



CERTIFICATE OF SERVICE

I, Joseph Davis, Jr., Appellant, Pro Se, do hereby certify that I have this day caused to be mailed, United States postage prepaid, a true and correct copy of the above and foregoing, Appellant, Joseph Davis, Jr., Pro Se, Appellant's Reply Brief to:

Lawyer Jason Graeber
Sheehan Law Firm
429 Porter Avenue
Ocean Springs, MS 39564

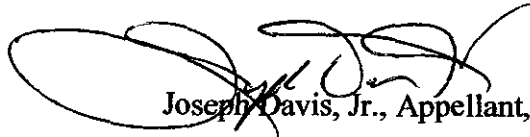
Circuit Court Judge Lisa P. Dodson
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Gulfport, Mississippi 39502

Jamie Wetzel Morgan, Circuit Court Reporter
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Gulfport, Mississippi 39502

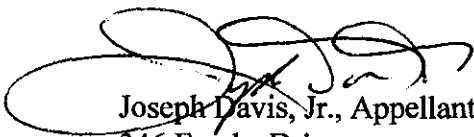
Michelle Casano, Circuit Court Reporter
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Gulfport, Mississippi 39502

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Kathy Gillis, Supreme Court Clerk
P. O. Box 249
450 High Street
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This the 6th Day April 2010.



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