

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

PERRY OSBORNE

APPELLANT

VS.

CAUSE NO. 2009-CP-01312

G. RIVES NEBLETT
REAL ESTATE INVESTOR/ DEVELOPER

APPELLEES

GLENN H. WILLIAMS-ATTORNEY AND TRUSTEE
FOR G. RIVES NEBLETT

CERTIFICATE OF INTERESTED PERSONS

The undersigned, Pro Se', 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.

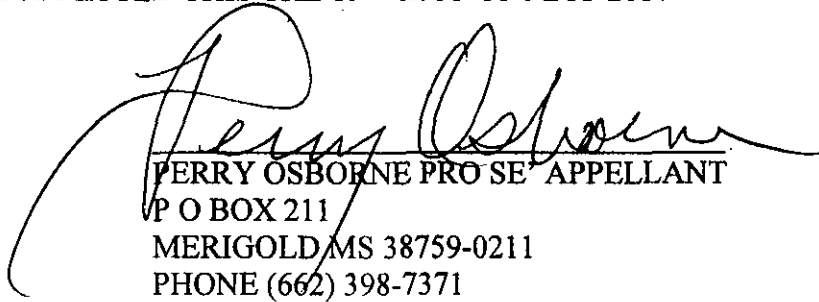
1. Perry Osborne, Pro Se', Appellant; P O Box 211 Merigold MS 38759-0211
2. G. Rives Neblett, Appellee; 401 N. Second Street Shelby MS 38774
3. Honorable Glenn H. Williams- Attorney and Trustee for G. Rives Neblett, Appellee
201 North Pearman Avenue Cleveland MS 38732



PERRY OSBORNE PRO SE' APPELLANT

OF RECORD,
Perry Osborne
P O Box 211
Merigold MS 38759-0211
(662) 398-7371

RESPECTFULLY SUBMITTED THIS THE 19TH DAY OF MAY 2010.



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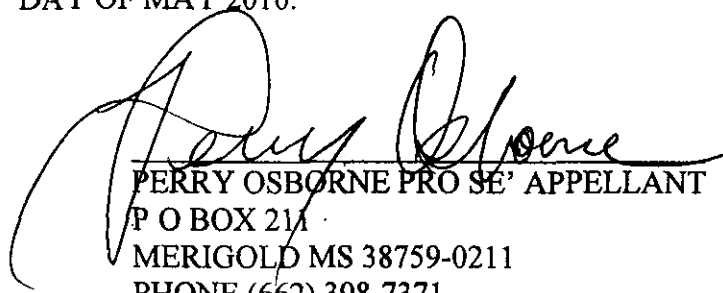
CERTIFICATE OF SERVICE

I Perry Osborne Pro Se' Appellant, do hereby certify that I have on this day mailed by first class U.S. mail, postage prepaid, a true and correct copy of the above and foregoing **CERTIFICATE OF INTERESTED PERSONS**, to the following addresses:

Ms. Kathy Gillis
Mississippi Supreme Court Clerk
P O Box 249
Jackson MS 39205-0249

Attorney Glenn H. Williams
Trustee and Attorney for G. Rives Neblett
201 North Pearman Avenue
Cleveland MS 38732

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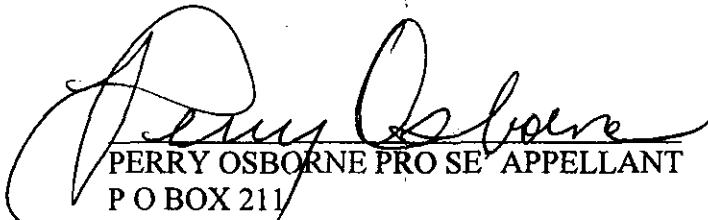
STATEMENT OF THE ISSUES

By this, Statement of the Issues, Perry Osborne Appellant Pro Se', will respectfully present these issues to this distinguished, Honorable Court, as follows:

1. Having not received the requested Continuance due to medical reasons, significantly interfered with and impaired Pro Se', Plaintiff's ability to reasonably present his case in the initial hearing.
2. The foreclosure process which was patently invalid, procedurally deficient and not legitimate with requirements, with regards to **Mississippi Code Annotated 89-1-55 and 1-3-69 (1972)**.
3. Misleading and incorrect information stated in the Orders, and the filing of the Orders.
4. A lapse in time, (Statue of Limitations) in regards to Defendants rights, under the Promissory note and Deed of Trust, to act and/or foreclose.
5. The Defendant's inaction also gives rise to a defense under the equitable doctrine of Laches. Between, August 2003 and August 2008, Plaintiff made repeated requests for information from Defendant in regards to the debt and what was owed, the Defendants failed and refused to respond, in a prompt and timely manner.

6. Disclosure of Information for Any Possible Basis for Judicial Recusal. A motion to disclose for Any Possible Basis for Judicial Recusal was filed and a Notice of Hearing. The Chancery Judge's action raises concern of improprieties and partiality with Defendant and his Attorney and Trustee Williams.
7. Plaintiff Perry Osborne, respectfully reserves the right to supplement and/or amend this Statement of the Issues, to convey a fair and accurate account of the issues in this case.

RESPECTFULLY SUBMITTED THIS THE 19TH DAY OF MAY 2010.


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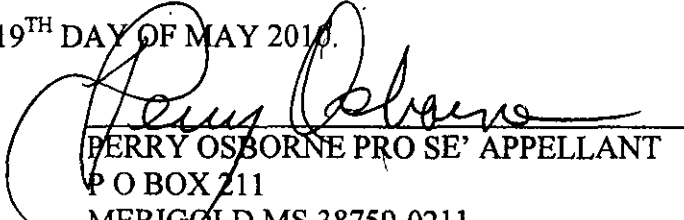
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I Perry Osborne Pro Se, Appellant, do hereby certify that I have on this day mailed by first class U.S. mail, postage prepaid, a true and correct copy of the above and foregoing **STATEMENT OF THE ISSUES**, to the following addresses:

Ms. Kathy Gillis
Mississippi Supreme Court Clerk
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Attorney Glenn H. Williams
Attorney and Trustee for G. Rives Neblett
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APPELLEES

GLENN H. WILLIAMS-ATTORNEY AND TRUSTEE
FOR G. RIVES NEBLETT

STATEMENT OF THE CASE

THIS MATTER came on before the court on **February 05, 2009**, in the 7th Chancery Court District in the Second Judicial District of Bolivar County. On **December 04, 2008** the Plaintiff herein, filed a **Complaint For Injunctive Relief** with regards to a foreclosure, of a Deed Of Trust, executed by the Plaintiff in favor of the Defendants. This Deed of Trust and the Promissory Note was prepared and filed by Attorney Glenn H. Williams, Trustee and Attorney for G. Rives Neblett, on August 22, 2000, in Book N-24, Page 291 in the records of the Deed of Trust in the office of the Chancery Clerk of Bolivar County, in Cleveland Mississippi.

1. Prior to this, legal proceedings, the Plaintiff, Perry Osborne, back in September 2003, went to the Defendant's office, G. Rives Neblett, which is located in Shelby, Mississippi of Bolivar County, to obtain a pay-off balance in regards to the balloon payment, which was the final payment of the Promissory Note. This information was vital in order for the Plaintiff to satisfy his obligations in regards to the Promissory Note. Upon discussing this, with the Defendant, G. Rives Neblett he requested, more time, to prepare the pay-off statement.

2. After several, phone calls and visits to the Defendant's office, G. Rives Neblett, it started to become clear, and eventually admitted by his office secretary, that their payment schedule and receipts were either misplaced or lost," as so it seemed". I, Plaintiff suggested, and it was concurred by his office, to supply whatever records Plaintiff has, which would assist the Defendant's office in preparing a pay-off statement.

3. After Plaintiff, eventually received, what appeared to have been a pay-off statement, it became evident, after a short observation of the document, of its inaccurate information, being that several payments were missing. The Plaintiff wrote letters, which are included as exhibits in the Record, and made numerous phone calls and visits to Defendant's office, G. Rives Neblett, to inform him of its inaccuracy.

4. Also included, in the transfer of information, it was outlined to Mr. Neblett that funds had been deposited in an account, to satisfy the note, with a bank that he has a favorable relationship with. Mind you, this bank is directly across the street, from his office. During this time, the Plaintiff made payments after September 2003, to indicate his good intent, to satisfy the Promissory Note.

5. This issue, in reference to, the accuracy of the pay-off statement, went on for some time. It also, became an issue of not, being able to reach the Defendant, G. Rives Neblett, due to his lacking of presence in the state, as the Plaintiff was told by his office. As years past, Plaintiff had not received any information from the Defendant, Mr. Neblett or his Trustee, Attorney Glenn H. Williams.

6. Then, somewhere around July 2008, the Defendant's Attorney Glenn H. Williams, without no prior notice or warning, called and informed the Plaintiff of a foreclosure in

progress. The Plaintiff, Perry Osborne, obviously surprised and stunned, offered Attorney Williams the same information that he had offered the Defendant Mr. Neblett. At this point, the Defendant's trustee had suggested that Defendant and the Plaintiff try to come to an agreement, on the terms of the pay-off. Because of the inaccuracy and the confusion of the Amortization statement, the Plaintiff and the Defendant, could not come to a conclusion.

7. At that point, a foreclosure was re-established. It was then, that it was brought to my attention, by previous counsel there was an issue in regards to the forfeiture of a contract, due to a lapse of time, by the Defendant. The Plaintiff in return, to gain a clear understanding of these, new issues, and to halt all process of the foreclosure, a **Complaint For Injunctive Relief** was filed in Chancery Court on **December 04, 2008**.

8. Subsequently, to obtain a more detailed understanding, from the Defendants, a request for answers, **Interrogatories and the Request for Production of Documents** were filed **February 03, 2009**, in the Record, of the Bolivar County Chancery Court.

9. On **February 05, 2009**, a hearing was held, upon entering, the hearing the Plaintiff presented a dental appointment card to the Chancery Judge, due to Plaintiff's medical condition, (two broken teeth), a **Continuance** was requested and accepted by the Chancery Judge. The Defendant's Attorney Williams, vigorously objected, and shockingly, the Chancery Judge reversed his decision.

10. In an **unusual**, twist of **maneuvers**, in contrary to **M.R.C.P. Rule 13**, by the Defendant's Trustee, that was allowed by the Chancery Judge and a total disregard of my **rights of due process**; the Defendants were allowed to become **Counter-Plaintiffs** and

all information submitted, in the **Plaintiff's** case was either **rejected or cancelled**, during this hearing on **February 05, 2009**. The Judge ruled in favor of the Defendant, and the Judge appointed the Defendant's Attorney to draw up the **Order** which was signed and dated, **February 12, 2009 without first affording** the Plaintiff the opportunity to review and criticize the same.

11. This was mainly due, to my **inability to represent myself**, due to my two (2) broken teeth. And now it has become clear, as to why it took so long for the Defendants to respond to the Plaintiff's requests, for an accurate, pay-off statement. The balance owed on the Amortization/ pay-off statement submitted by the Defendant's Attorney, had brought, with interest, the balance back to the original Promissory Note.

12. The Plaintiff was finally; able to obtain a lawyer, which the Attorney entered a Notice of Appearance on **March 16, 2009**. The Plaintiff's lawyer filed a **Motion For Reconsideration, For Stay Of Order And For Other Relief on March 16, 2009**. With proper notice for hearing issued to the Defendants in this case, this Motion came on for hearing on **May 29, 2009**.

13. The Plaintiff attended the hearing, the day started with a very unusual turn of events, upon entering the Court house with my lawyer, we proceeded to the courtroom, where he (Plaintiff's Attorney) and Plaintiff engaged ourselves with issues in regards to the case, shortly after, we entered the Courtroom someone entered from the back of the court room and beckoned for, my (Plaintiff's) Lawyer attention.

14. After returning, from speaking to this individual, he (Plaintiff's Lawyer) returned to tell the Plaintiff, that the Chancery Judge wanted to speak with him in the Judge's

Chambers, Plaintiff's Lawyer gestured to me (Plaintiff) to remain seated, in the Court room, until he returns. With witness, beside me, that is, what I (Plaintiff) did.

15. Shortly after, Plaintiff's Lawyer, exited, Plaintiff heard loud voices coming from the rear of the courtroom. Plaintiff suspects the voices are coming from the "Judge's Chamber", Plaintiff remain seated, for a least another twenty (25) or thirty (30) minutes. The Plaintiff's Lawyer returned and beckoned the Plaintiff to follow him to the Judge's Chambers.

16. When the Plaintiff entered the Chambers, the Chancery Court Judge was seated at the head (end) of a long conference table, with both Attorneys seated opposite of each other. When I took a seat at the table, with my witness, Plaintiff was preparing to engage in the process of the hearing. Plaintiff was confronted by the Chancery Judge interrogating me (Plaintiff) about, why I had not paid Rives (Defendant) his monies.

17. I (Plaintiff) obviously attempted to gather my composure in an attempt to answer the Judge's question, and try and understand what was going on, after a few back and forward gestures, in this matter; it was demanded of me (Plaintiff) to go back into negotiations to pay Rives (Defendant) his monies.

18. I (Plaintiff) respectfully suggested to the Court, at that moment, that there were other issues at hand that needed to be addressed, the Chancery Judge, told me, to concur with my lawyer. Then, they (Chancery Judge, Defendant's Attorney and Plaintiff's Attorney) all shook hands as if, they had made a valiant accomplishment, at that point, the hearing was adjourned.

19. After leaving the Judge's Chamber, I (Plaintiff) asked my Attorney, what happened to the hearing, for the Motion For Reconsideration, For Stay Of Order And Other Relief ?

His (Plaintiff's Attorney) response to me was, "Did you hear us arguing and fussing in the back room, that was the hearing". I (Plaintiff) was speechless. This charade ended with no agreement reached at the hearing. In conjunction, with the Chancery Judge's **verbal Order**, these "re-negotiations" went on for several weeks. It ended, with no agreements.

20. A few weeks, after the hearing, the Motion to Reconsider..., the Chancery Judge summoned both, Attorneys to prepare a **proposed Order**. My (Plaintiff's) Attorney had prepared two (2) proposals. The first proposal, I (plaintiff) was in favor of, the second one, I was not. My, (Plaintiff) Lawyer chose the second one. The second proposed Order was submitted to the Chancery Judge. During the Motion to Expand the Record, it was included the Record. The Chancery Judge eventually entered a ruling, and chose, the Defendant's **proposed Order**. The **Order** was signed and entered on **July 09, 2009**.

21. The **Order**, for the Motion For Reconsideration, For Stay Of Order And Other Relief, was **appealed** to the Mississippi Supreme Court on **August 10, 2009**.

22. Upon reviewing, the **Record** to prepare for the Appeal process, the Appellant discovers the **lack of** information, exhibits, etc... which was originally furnished to the Attorney who prepared the Motion for Reconsideration, For Stay Of Order And Other Relief. The **inclusion** of pertinent information, exhibits, etc... **was vitally** important to support, the Plaintiff's case.

23. A motion was filed on August 28, 2009, to Request Expansion And Correction To The Records, pursuant to ***M.R.A.P. Rule (10)(e)***. Upon proper notification, of the Notice of Hearing, to Defendant's Attorney, a hearing was held on September 10, 2009.

24. On September 10, 2009, a hearing for the Motion to Expand the Record, pursuant to **M.R.A.P. Rule (10) (e)**, came on for hearing, being in the position, once again as Pro Se', and trying to rectify the issues, to the Chancery Judge had become a struggle, for this information to be included in the Record, along with trying to deal with the objections from Glenn H. Williams, Attorney of the Defendant, was difficult, to say the least.

25. Eventually, the Judge gave his decision, to grant Plaintiff's expansion of the Record, but only to a limited amount. This was confusing, how does the Judge and the Defendant's Attorney, control what pertinent information, be submitted in the **Record** on Plaintiff's behalf? The Judge appointed, the Defendant's Attorney Williams to prepare the **Order**.

26. After several days, around September 16, 2009, of not hearing from, the Defendant's Attorney, Plaintiff went to the office of Attorney Glenn H. Williams and asked about the **status**, of the **Order**, during the conversation, Attorney Williams stated, he refuses to write up the **Order**. Plaintiff left Attorney Williams' office.

27. Concerned about what to do next, Plaintiff contacted the Judge's office, on September 17, 2009 to ask for assistance with the **matter** and the court administrator suggested that, if the Defendant's Attorney is not responding, then prepare and submit an **Order** for the Judge's review. An **Order** was prepared and submitted, by the Plaintiff, to the Chancery Judge's office via facsimile and U. S. mail, for his review, on September 17, 2009, and the Defendant's Attorney was copied with the same.

28. Plaintiff called the Chancery Judge's office, due to no response, about the status of the Order, for several days, and left messages. It soon became, necessary for Plaintiff to call the **Mississippi Supreme Court clerk's office** and request assistance. On September

21, 2009, Plaintiff called and spoke to, Ms. Kathy Gillis, with this dilemma, because the Chancery Court Judge apparently was not responding, to the making and signing of his **Order**.

29. After the **Mississippi Supreme Court Clerk**, Ms. Kathy Gillis made a inquiry into the status of this case, the Chancery Judge finally responded. The Chancery Judge, requested of the Defendant's Attorney, again, to write up **the Order**. The **Order**, **Plaintiff**, previously submitted, was not considered.

30. There was a discrepancy in the **Order** written by the Attorney Williams. The Plaintiff had to file a Motion to Expand, Correct ..., the Record, to clarify the **Order**. Additional exhibits and information pertinent to the Record to convey a fair and accurate account of what transpired, all was not included in the additional requested information for the **Record**.

31. It was, also, discovered a few days later that the **incomplete, Record** in this case was sent to the Mississippi Supreme Court Clerk's office around the time, a hearing, had just been held, to Expand Correct and Modify the Record and the **Order**, was still pending.

32. A letter dated September 11, 2009, was received, Notice of Briefing Schedule and the date due. In the process of dealing with **the Record**, the time for filing the Appellant Brief drew near, and yet the Record was not complete.

33. The Appellant after inquiring with the Mississippi Supreme Court Clerk's Office, Plaintiff filed a Motion for Extension of Time on October 14, 2009 to prepare and file Brief as with *M.R.A.P. Rule 31(e)* Plaintiff prayed for briefing schedule to be set aside or suspended until the Record in the case was complete.

34. The Motion for Extension of Time was granted with a suspension of the briefing schedule, until the Supplemental Record was received by the Mississippi Supreme Court Clerk's Office. A Motion to Expand, Correct and include to the Supplemental Record was filed on Dec. 01, 2009. This Motion was filed to **clarify and include** all pertinent documents and information filed and received after **July 09, 2009, Order** to be sure the Record would be complete. This motion is included in the Record.

35. Previously, in the month of, November on 19th another Motion was filed, to try and gain clarity of the Defendant, G. Rives Neblett and his Trustee and Attorney Glenn H. Williams', relationship with the Chancery Judge, who has been, presiding over this case. In doing so, pursuant to *Mississippi Chancery Court Rules 1.11*, there was A Motion for Disclosure For Any Possible Basis for Judicial Recusal; filed on November 19, 2009. The Motion For Disclosure..., first notice of a Hearing, was set for December 10, 2009, but, the Defendant's Attorney Williams called the Plaintiff on December 09, 2009, and requested a continuance, due to a previous engagement. Plaintiff Osborne acknowledged, Attorney Williams' request, via phone and Plaintiff Osborne, also mailed a letter, dated December 14, 2009 to Attorney Williams. The Plaintiff rescheduled the Motion.

36. The Motion came on for hearing, on **Thursday, January 28th 2010**; the Chancery Judge adamantly rejected the Motion, which seems to be apparent, for obvious reasons. The Chancery Judge did not respond to the Plaintiff's requests, in reference to the Motion filed. Moreover, the Defendant's Attorney Williams, commenced, discussing another Motion, that was previously filed in the Record.

37. Plaintiff stated, he was not here to discuss the Motion To Expand, Correct And Include To The Supplemental Record, at this time. But, the Chancery Judge refused to

respond to the Motion for Disclosure., The Chancery Judge stated, Plaintiff had no grounds to ask him these questions and issues, in regards to this recusal, and chose not to respond.

38.As unorthodox, as it may be, it would, be highly appreciated of this Honorable Court and respectfully requested, if this, Honorable Court would convene in this matter. This is a greatly needed request, and if Plaintiff is required to petition this request, please **advise**.

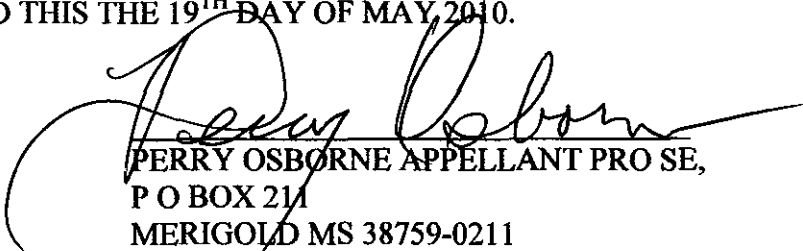
39. Subsequently, an **Order** was written and submitted by the Plaintiff, in regards to the Judge's rulings, due to the fact that the Chancery Judge did not appoint any one to draw up **this Order**, in reference to the hearing held on, **January 28, 2010**, the Order, was signed and entered in the Record on **February 08, 2010**.

40.The Motion To Expand, Correct, And Include To The Supplement Record was also, ruled on, along with the aforementioned Motion For Disclosure, in regards to possible recusal and the Chancery Judge's ruling was also, included in the **Order**, which was signed on **February 08, 2010**.

41. The Chancery Clerk's Office prepared and submitted the supplemental **Record** to the Mississippi Supreme Court Clerk's Office. The Supplemental Record was sent, **without**, first affording the Plaintiff, the opportunity for **reviewing** its contents.

Further Plaintiff Perry Osborne, reserves the right to supplement or amend this Statement of the Case, to demonstrate additional grounds and to convey a fair, accurate and complete account of the Statement of the Case, and the issues.

RESPECTFULLY SUBMITTED THIS THE 19TH DAY OF MAY 2010.



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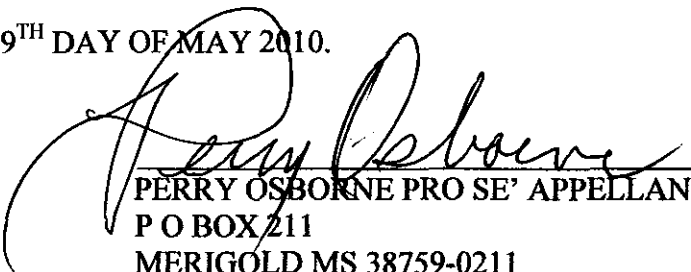
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FOR G. RIVES NEBLETT

STATEMENT OF THE FACTS

NOW COMES, Perry Osborne, Plaintiff, Pro Se', in the above styled, and numbered Cause will present for review the issues in reference to the **FACTS** in this case. The issues and facts introduced, in this case for the Honorable Court's consideration, are as follows:

1. **THIS MATTER**, came on before the court on February 05, 2009, in the 7th Chancery Court District, in the Second Judicial District, of Bolivar County. On December 04, 2008 the Plaintiff herein, filed a Complaint For Injunctive Relief with regards to a foreclosure, of a Deed Of Trust, executed by, the Plaintiff, in favor of, the Defendant. This Deed of Trust and the Promissory Note was prepared and filed by Attorney Glenn H. Williams, Trustee and Attorney for G. Rives Neblett, on August 22, 2000, in Book N-24, Page 291 in the records of the Deed of Trust in the office of the Chancery Clerk of Bolivar County, at Cleveland Mississippi.
2. On Friday, May 29, 2009, at 10:00 a.m., at the Coahoma County Courthouse in Clarksdale, Mississippi, **THIS CAUSE**, came on for hearing, pursuant to notice, of the

Plaintiff's Motion for Reconsideration, For Stay Of Order And Other Relief, filed by Plaintiff's Attorney, from this Court's Order dated February 12, 2009, which purportedly dismissed the Plaintiff's Pro Se' Complaint For Injunctive Relief, ratified the Defendant's December 04, 2008 foreclosure sale, and granted Defendant's counter claim directing Plaintiff to vacate the property which was subject to the foreclosure, within sixty (60) days from the date of the Order. Pursuant to *Miss.R.Civ.P.62(b)*, Plaintiff should have been granted a stay of execution and enforcement of said Order, under the circumstances.

3. The Plaintiff, having not received, the requested Continuance due to medical reasons, two (2) broken, teeth that he had broken the day before the hearing, which he presented before the Chancery Judge, an appointment card. Appellant also presented to the Court the following week, documentation, to confirm, the extractions. This information was rejected in the initial hearing and, the hearing process went forward. This significantly, interfered with and impaired the Plaintiff's ability, to reasonably, present his case.

4 .On December 4, 2008, the Foreclosure process which was procedurally deficient and not legitimate. With regards to *Mississippi Code Ann. § 89-1-55 & 1-3-69 (1972)*, according to the Defendant's Attorney's Trustee's Deed, the foreclosure sale was patently invalid no title has passed, *Mississippi Code Annotated 89-1-55* requires that a notice of sale be advertised once each week for three (3) consecutive weeks and *Mississippi Code Ann. 1-3-69* mandates that the sale be conducted within one (1) week of last publication. According to the Defendant's Trustee's Deed, the foreclosure sale, failed to follow the required statutory procedure, the deed cites publication in the Bolivar Commercial.

5. The **Orders**, misleading and incorrect statements in the orders, and the filing of the Orders. The above styled and numbered cause came on for the initial hearing before the Court on February 5, 2009, on the complaint for Injunctive Relief filed herein by Plaintiff, Perry Osborne. The hearing went forth and the ruling was given. The Defendant's Attorney was, appointed, by the Judge, to prepare the **Order**. The misleading and in total contrast, information specified in the February 12, 2009 Order states as follows:

- i. In paragraph #3, it states that the (Plaintiff) Appellant presented no evidence at the hearing to indicate that he had made any payments against the balance due under the Promissory Note since its maturity in August 2003. The Defendant's themselves, presented an Amortization schedule dated August 2008 which clearly reflects payments made after the Promissory Note maturity date. This is clearly in contrast, to what was stated in the order. Not only is, this statement, misleading but also teetering on the edge of perjury, by this Defendants Attorney.
- ii. In paragraph #4, it states the Amortization schedule reflecting all credits, was generated by the Defendant and provided to the Plaintiff. In the letters dated December 12, 2003 and February 08, 2007 it clearly states that the Plaintiff offered to provide the receipts from the Plaintiff record of payments. In paragraph #5, it states the Plaintiff made no attempts to issue any payment in complete or partial satisfaction of the indebtedness existing. In contrast, the Amortization Schedule clearly shows payments made after August 2003.

- iii. In paragraph #6, it states the Court further finds that Plaintiff has presented no facts or legal arguments, which would in any way support setting aside the Trustee Sales or the Trustee's Deed, executed and filed following the sale and the Trustee's Sale should be and it is hereby confirmed and ratified in all respects. In contrast, The Plaintiff notified the Defendant the day before the hearing and upon entering the Hearing, requested a Continuance, as outlined in the Record of the Motion For Reconsideration. For Stay of Order And For Other Relief. Due to two broken teeth, which caused great pain, in turn impaired and significantly interfered with the Plaintiff's ability, to reasonably present his case.
- iv. The Appellant states, that the Order which was prepared and signed on February 12, 2009 was drawn and prepared by the Appellee's Attorney without first affording the Appellant the due process of reviewing and criticizes the same, which relates to *Uniform Chancery Court Rule 5.04*.
1. A lapse in time, to act before the Statue of Limitations expire, in regards to the Defendant's rights under, the Promissory Note and Deed of Trust had been relinquished, this lapse occurred between August 2003 through, August 2008. From 2003 until foreclosure was begun in August 2008, Defendant slumbered on his rights under the Note and Deed of Trust, and waited until a time possibly beyond the limitations of actions had run before commencing foreclosure.
 2. The Honorable Court should note that this defense, was raised by the Plaintiff in his Pro Se' Complaint for Injunctive Relief. It states, in paragraph # 4, of the Complaint, ("for an

Order requiring defendants G. Rives Neblett and his duly appointed Trustee Glenn H. Williams under the Contract of Sale, and legal counsel for G. Rives Neblett, to show cause why defendant should be granted the right to foreclosure when the *Statue of Limitations under Section 15-1-49 and Section 15-1-53*; bring forth any legal claim, expired in 2006”).

3. The Defendants, inaction also gives rise to a defense under the Equitable Doctrine of Laches. Between 2003 and August 2008, Plaintiff made repeated requests for information from the Defendant in regards to the debt and what was owed. The Plaintiff repeatedly contacted the Defendant, to be provided with, a pay off statement for the aforementioned debt, but Defendant totally failed and refused to do so, from 2003 until the foreclosure was begun in 2008, the Defendant slumbered on their rights, under the Promissory Note and Deed of Trust, and waited until a time possibly beyond the limitation of actions had run before commencing foreclosure.

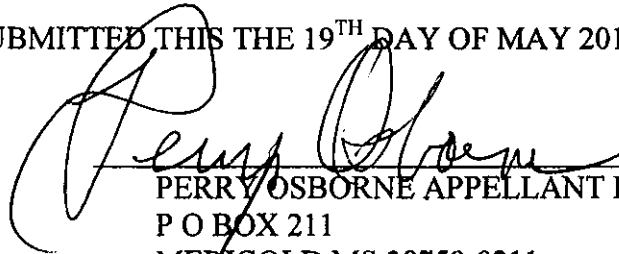
4. Disclosure of Information, for Possible Basis For Judicial Recusal.

A Motion To Disclose, For Any Possible Basis Of Judicial Recusal was filed on, November 19, 2009. The Judge's actions raises concern as to the improprieties which have occurred in the course of this case, in regards, to the Defendant G. Rives Neblett and Glenn H. Williams, Attorney and Trustee for G. Rives Neblett. The Chancery Judge's questionable actions, in regards to the Defendants, spawned the Motion for Disclosure..., which, is included the Record.

5. Such as, on October 01, 2009, there was a ruling, in regards to Plaintiff's, Motion To Expand, Correct And Modification Of The Record. The Defendant's Attorney was appointed by the Chancery Judge to draw up the Order, and yet this Court allowed this

Order to be set aside, or unlawfully suspended. On February 12, 2009, the Chancery Judge signed an Order written by, Defendant's Attorney, this Order was prepared without first affording the Plaintiff the right to view and criticize the same, contrary to the requirements of **Uniform Chancery Court Rule 5.04.**

RESPECTFULLY SUBMITTED THIS THE 19TH DAY OF MAY 2010.


PERRY OSBORNE APPELLANT PRO SE'
P O BOX 211
MERIGOLD MS 38759-0211
PHONE (662)398-7371
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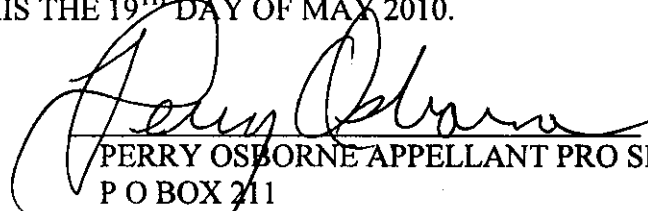
CERTIFICATE OF SERVICE

I Perry Osborne Pro Se', Appellant, do hereby certify that I have on this day mailed by first class U. S. mail, postage prepaid, a true and correct copy of the above and foregoing **STATEMENT OF THE FACTS**, to the following addresses:

Ms. Kathy Gillis
Mississippi Supreme Court Clerk
P O Box 249
Jackson MS 39205-0249

Attorney Glenn H. Williams
Attorney and Trustee for G. Rives Neblett
201 North Pearman Avenue
Cleveland MS 38732

CERTIFIED THIS THE 19TH DAY OF MAY 2010.


PERRY OSBORNE APPELLANT PRO SE'
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IN THE SUPREME COURT OF MISSISSIPPI
COURT OF APPEALS OF THE STATE OF MISSISSIPPI

PERRY OSBORNE

APPELLANT

VS.

CAUSE NO. 2009-CP-01312

G. RIVES NEBLETT
REAL ESTATE INVESTOR/ DEVELOPER

APPELLEES

GLENN H. WILLIAMS-ATTORNEY AND TRUSTEE
FOR G. RIVES NEBLETT

SUMMARY OF THE ARGUMENT

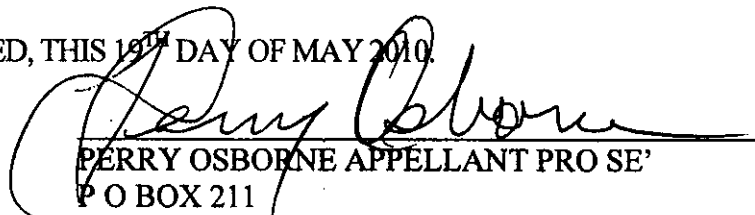
NOW COMES, Appellant Perry Osborne Pro se' and respectfully moves the Honorable Court to reconsider this **Order dated July 09, 2009** in which a hearing was held on this **Cause**, Friday, May 29, 2009, at 10:00 a.m., at the Coahoma County Courthouse in Clarksdale, Mississippi **THIS CAUSE** came on for hearing, pursuant to notice, of the Plaintiffs Motion for Reconsideration, for Stay of Order and for Other Relief, from this Court's **Order dated February 12, 2009**, which purportedly dismissed the Plaintiff's Pro Se' **Complaint for Injunctive Relief, filed December 04, 2008**, ratified the Defendant's **December 4, 2008 foreclosure sale**, and granted Defendant's counterclaim directing Plaintiff to vacate the property which was subject to the foreclosure, within sixty (60) days from the date of the Order, to further grant Plaintiff **a stay of execution and enforcement** of said Order **pursuant to Miss. R. Civ. P. 62(b)**, and to grant Plaintiff such other relief, as may be reasonable and necessary under the circumstances. The issues, raised in Plaintiffs Motion, pleadings and exhibits filed herein, Plaintiff (Appellant), will further offer and explain the issues unto the Honorable Court as follows:

1. Due to the pain, of the two (2) broken teeth that Plaintiff complained of, to the Defendant's Attorney Glenn H. Williams, prior to and immediately upon entering the Hearing, in **THIS CAUSE** on February 5, 2009, Plaintiff should have been granted a Continuance for said medical reasons. Requiring the Plaintiff, who was at that time appearing, Pro Se' and the Plaintiff, presented evidence of a dental appointment, effectively precluded the Plaintiff from having a fair opportunity to present his claims and defenses.
2. This action, of denying the Continuance, conclusively, violated the Plaintiff's civil rights, in that the Plaintiff was not given a fair opportunity to represent himself, which effectively denied the Plaintiff's due process of law.
3. Further, the Order that this Court signed on February 12, 2009, was prepared by Defendant's counsel and presented to the Court without first affording the Plaintiff an opportunity to review and criticize the same, contrary to the requirements of **Uniform Chancery Court Rule 5.04**.
4. Further, Plaintiff has arguable defenses regarding expiration of the statute of limitations defense and an equitable Defense of Laches to the indebtedness and the Defendant's foreclosure, which were both raised in the Plaintiffs original Pro Se' Complaint.
5. Through the February 12, 2009 Order, this Court mistakenly confirmed the Defendant's December 4, 2008 foreclosure sale of the real property which is the subject of this litigation. Based on the Trustee's Deed, Proof of Publication and Trustee's Affidavit, all of which are included in the Record, to the Defendant's Answer and Counterclaim herein, clearly demonstrate that said December 4, 2008 sale failed to

comply with the publication and sale requirements of **Miss. Code Ann. §89-1-55 and §1-3-69 (1972)**; it was patently invalid; and accordingly, no title passed pursuant to said sale. Under these circumstances, this Court mistakenly applied the law to the facts of this case.

6. This Court is required to liberally construe **Miss.R.Civ.P. 60(b)** in deciding whether to grant Perry Osborne's Motion so that substantial justice can be achieved here. Because the relief granted, to the Defendants requiring the Plaintiff to vacate the premises, within sixty (60) days of February 12, 2009 Order was dependent upon the validity of the foreclosure sale, that relief must be set aside and vacated, also.
7. Further, the Plaintiffs Original Pro Se' Complaint was filed as a consequence of the December 4th foreclosure sale, that Complaint, as well as Defendant's Answer and Counterclaim, and the relief sought therein, become moot, and these pleadings should be dismissed with Prejudice to the Plaintiff (Appellant) .
8. The Motion For Disclosure Of Any, Possible Basis Of Judicial Recusal was sought, due to the questionable actions of the Court, which are further outlined in the Motion. Viewing the Judge's response, to the Motion, which is entered in the **Order, dated, February 08, 2010**, it would be highly appreciated if this Honorable Court would conduct **an inquiry**, further, in reference to the Motion and the Order filed.

RESPECTFULLY SUBMITTED, THIS 16TH DAY OF MAY 2010.


PERRY OSBORNE APPELLANT PRO SE'
P O BOX 211
MERIGOLD MS 38759-0211
PHONE (662) 398-7371
Email: ozzieauto@BellSouth.net

CERTIFICATE OF SERVICE

I Perry Osborne, Appellant Pro Se', do hereby certify that on this day mailed by first class United States mail, postage prepaid, a true and correct copy of the above foregoing **SUMMARY OF ARGUMENT** to the following addresses:

Ms. Kathy Gillis
Mississippi Supreme Court Clerk
P O Box 249
Jackson MS 39205-0249

Attorney Glenn H. Williams
Trustee and Attorney for G. Rives Neblett
201 North Pearman Avenue
Cleveland MS 38732

CERTIFIED THIS THE 19TH DAY OF MAY 2010.


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

PERRY OSBORNE

APPELLANT

VS.

CAUSE NO. 2009-CP-01312

G. RIVES NEBLETT

REAL ESTATE INVESTOR/DEVELOPER

APPELLEES

GLENN H. WILLIAMS-ATTORNEY AND TRUSTEE
FOR G. RIVES NEBLETT

THE ARGUMENT

NOW COMES, Appellant Perry Osborne, Pro Se' and respectfully moves the Honorable Court to reconsider the Order dated July 09, 2009, which culminated from the Plaintiff's Motion For Reconsideration, For Stay of Order And for Other Relief, from the Order dated, February 12, 2009, which purportedly dismissed, the Plaintiff's Pro Se' Complaint for Injunctive Relief, filed December 04, 2008 and mistakenly ratified the Defendant's defective December 4, 2008 foreclosure sale, and granted Defendant's counterclaim directing Plaintiff to vacate the property, which was subject to the foreclosure, within sixty (60) days from the date of the Order, to grant Plaintiff a stay of execution and enforcement pursuant to *Miss.R.Civ.P. 62(b)*, and to grant Plaintiff such other relief, as may be reasonable and necessary under the circumstances. In support of this appeal, Plaintiff Perry Osborne, would respectfully state the following:

1. To this most Honorable Court, I (Plaintiff) submit to the Justices, my most humbleness plea, for your forgiveness for offering such, a poor and pathetic Argument. This Argument is due, to the profound reason that I was excluded from both hearings. Even though, it was apparent I was represented in the second hearing, the Motion to

Reconsideration, by an Attorney, when I (Plaintiff) say systematic, you're Justices; Plaintiff means, I (Plaintiff) attended both hearings, but I was treated in a fashion of total exclusion. It is now, that I (Plaintiff) throw myself at the mercy of this Honorable Court to give the Plaintiff, an opportunity to offer this Honorable Court some form of clarity in this matter. I (Plaintiff) pray that this Honorable Court, bear with me (Plaintiff).

2. These proceedings started in, the Chancery Court of Bolivar County, Mississippi Second Judicial District; the Court conducted a hearing in **THIS CAUSE** on February 5, 2009, despite Plaintiff's request for a Continuance due to medical reasons, to which the Defendants objected. Perry Osborne had two teeth which were causing him great pain and significantly interfered with and impaired his ability to reasonably present his case. Although Osborne provided, the Court and Counsel opposite with proof of his scheduled dental appointment, Counsel for Defendant objected with general claims of prejudice, and this Court denied Plaintiff's request. A few days following the hearing, Osborne had his painfully, bothersome teeth extracted. A copy of Osborne's scheduled dental appointment which was provided to the Chancery Court is incorporated, in the Record, as well as the February 9, 2009 statement of charges from Delta Health Clinic, P.A.
3. By requiring this Pro Se' Plaintiff to go proceed on February 5th, under circumstances that a represented party, of his Attorney would likely have been granted the courtesy of a Continuance, effectively precluded the Plaintiff from having a fair opportunity to present his claims and defenses.

4. Further, this action of denying the Continuance conclusively violated the Plaintiff's civil rights, in that the Plaintiff was not given a fair opportunity to represent himself, which effectively prohibited the Plaintiff's rights for due process of law.
5. Additionally, the Order that, this Chancery Court had prepared by Defendant's counsel and presented to the Court without first affording the Plaintiff an opportunity to review and criticize the same, as is required by *Uniform Chancery Court Rule 5.04*, which provides, in pertinent part, the following: **"In all litigated actions, the attorney who shall be directed to draw the Judgment shall submit the same to opposing counsel for criticism as to form only . . ." before presenting the same to the Chancellor.**
6. Further, Plaintiff has a legitimate statute of limitations defense, as well as an equitable Defense of Laches, to the Defendant's purported foreclosure.
7. According to the pleadings that have been filed herein, the Plaintiff, Perry Osborne, executed a Promissory note and Deed of trust on, non-commercial real property in favor of Attorney Glenn H. Williams, Trustee for G. Rives Neblett, dated June 30, 2000, in the original amount of \$18,000.00, and having a final maturity on August 1, 2003.
8. Between August, 2003 and August, 2008, Plaintiff made repeated requests of the Defendant to provide Plaintiff with a payoff statement, the Plaintiff in advance, commenced, making deposits required, in a local Bank, to prepare to satisfy all concerns of this pending aforementioned debt, but the Defendant totally failed and refused to respond in a timely manner. A copy of this aforementioned, bank statement has been entered in the Record, to demonstrate Plaintiff's intentions.
9. This position, that the Defendant took in regards to not, cooperating in a timely manner, shifted the Plaintiff, in a position where funds or assets previously allotted, which could have been used, earlier to promptly satisfy the remaining balance (balloon payment) of the

Promissory note, but, due to the extensive lapse in time, eventually the funds were exhausted into other financial obligations. From 2003 until foreclosure was begun in 2008, Defendants slumbered on their rights under the note and deed of trust, and waited until a time possibly beyond the limitations of actions had ran before commencing foreclosure.

10. This Honorable Court should note that this defense was raised by the Plaintiff in his Pro Se' Complaint. Additionally, Defendant's inaction also gives rise to a defense under the equitable doctrine of laches.
11. The Defendants cannot realistically complain of any prejudice he might suffer should this Honorable Court grant this appeal, because the December 4, 2008 foreclosure sale which the Defendants (Appellees) asked the Chancery Court to ratify was procedurally deficient and failed to comply with the publication and sale requirements of *Miss. Code Ann. §89-1-55 and §1-3-69 (1972)*. **89-1-55, states, sale of said lands shall be advertised for three consecutive weeks preceding such sale, in a newspaper published in the county, or, if none is so published, in some paper having a general circulation therein, and by posting one notice at the courthouse of the county where the land is situated, for said time, and such notice and advertisement shall disclose the name of the original mortgagor or mortgagors in said deed of trust or other contract. No sale of lands under a deed of trust or mortgage shall be valid unless such sale shall have been advertised as herein provided for, regardless of any contract to the contrary. An error in the mode of sale such as makes the sale void will not be cured by any statute of limitations, except as to the ten-year statute of adverse possession. In short, according to the Defendant's Trustee's Deed, the**

foreclosure sale was patently invalid, no title has passed, and the Chancery Court made a mistake in ratifying that sale.

12. *Miss. Code Ann. §89-1-55* requires that a notice of sale be advertised once each week for three (3) consecutive weeks, and *Miss. Code Ann. § 1-3-69* mandates that the sale be conducted within one (1) week of the last publication. According to the Defendant's Trustee's Deed, which is included in the Record, foreclosure sale failed to follow the required statutory procedure. The deed cites publication dates of November 18, 2008, November 25, 2000 (*sic*), and December 2, 2008, and the proof of publication in The Bolivar Commercial is included therein.
13. The procedure commonly followed for publication of foreclosure notices is to run the notice for four (4) successive weeks with the sale to be conducted within one week of the last publication date. See: *Jones v. Salmon, 91 So. 199 (Miss. 1922)*, and *Marvis v. Lindsey, 87 So. 12, 16 (Miss. 1921)*. By publishing the notice only three times, the Defendant clearly did not do that here.
14. While it is possible to publish the foreclosure notice only three (3) times like the Defendant here did, the three (3) week requirement between first publication and sale date is met only if the foreclosure sale is conducted exactly one (1) week from the last publication. See *Donald v. Commercial Bank of Magee, 132, Miss. 578, 97 So. 12, 13 (Miss. 1923)*, and *Melchor v. Casey, 161 So. 692 (Miss. 1935)*.
15. Under the publication method chosen by the Defendant here, the only possible date under which a valid foreclosure sale could have been conducted was on December 9, 2008.

Accordingly, the December 4th sale was not valid, and no title passed under that sale. The Chancery Court was mistaken in ratifying that defective sale.

16. The Chancery Court was required to liberally construe *Miss.R.Civ.P. 60(b)* in deciding whether to grant Perry Osborne's Motion so that substantial justice can be achieved here. Further, Plaintiff would suggest that the Motion was timely and made within a reasonable time following entry of the Chancery Court's February 12th Order.
17. Additionally, Perry Osborne should be granted, pursuant to *Miss.R.Civ.P. 62(b)*, a stay of execution of the Chancery Court's July 09, 2009 Order. Moreover, the reversal of the FIAT issued and Ordered on July 30, 2009.
18. The Appellant (Plaintiff) concerns at this time are crucial, in that, one would expect for the legal system to be fair and just for all. Any one of us may at some point in time, have to utilize the legal system, to have their perspective issues resolved. It should not be left up to the Plaintiff, to assure that the trial Judge is impartial—the duty rest upon the trial Judge to act on any hint of impropriety (*sua sponte*) . The Federal Courts agree that it is placed upon the Judge a personal duty to disclose on the Record any circumstances that may give rise to a reasonable question about his impartiality.
19. Therefore, Plaintiff prays that this Honorable Court, recognize and appreciate, the Plaintiff's efforts in submitting this motion for possible recusal against the trial Judge. And pursuant to *Mississippi Chancery Court Rules 1.11*. The Plaintiff would like to request, if possible, a direct involvement of this Honorable Court's wisdom, in an effort to resolve the issues of this equation. The motion filed in this matter a Motion For Disclosure, Of Any Possible Basis Of Judicial Recusal, has been included in the Record.
20. Plaintiff reserves the right to amend and/or supplement this Argument to demonstrate additional grounds for reconsideration of the July 09, 2009 Order.

WHEREFORE, PREMISES CONSIDERED, Plaintiff, Perry Osborne, respectfully moves this Honorable Court, as follows:

1. To reconsider the Chancery Court's July 09, 2009 Order for the reasons stated above, to set said Order aside.
2. To stay execution and enforcement of said Order under *Miss.R.Civ.P.62(b)*, moreover the reversal of the FIAT, issued and Ordered on July 30, 2009.
3. To grant Plaintiff such other and further relief, both general and specific, to which he might be entitled under the circumstances.

RESPECTFULLY SUBMITTED, THIS THE 19TH DAY OF MAY 2010.


PERRY OSBORNE APPELLANT PRO SE
P O BOX 211
MERIGOLD MS 38759-0211
PHONE (662) 398-7371
Email:ozzieauto@BellSouth.net

CERTIFICATE OF SERVICE

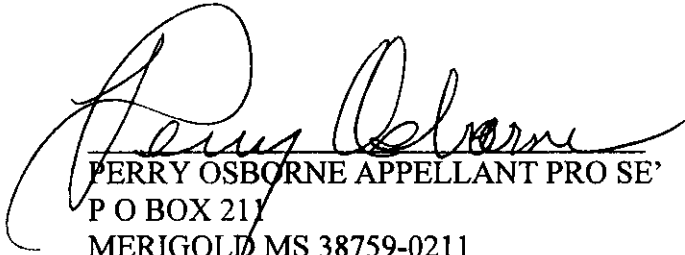
I Perry Osborne, Appellant Pro Se', do hereby certify that on this day mailed by first class United States mail, postage prepaid, a true and correct copy of the above foregoing

ARGUMENT to the following addresses:

Ms. Kathy Gillis
Mississippi Supreme Court Clerk
P O Box 249
Jackson MS 39205-0249

Attorney Glenn H. Williams
Trustee and Attorney for G. Rives Neblett
201 North Pearman Avenue
Cleveland MS 38732

CERTIFIED THIS THE 19TH DAY OF MAY 2010.


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

PERRY OSBORNE

APPELLANT

VS.

CAUSE NO. 2009-CP-01312

G. RIVES NEBLETT
REAL ESTATE INVESTOR/ DEVELOPER

APPELLEES

GLENN H. WILLIAMS-ATTORNEY AND TRUSTEE
FOR G. RIVES NEBLETT

CONCLUSION

NOW COMES, Appellant, Perry Osborne, Pro Se', in regards to the above styled and numbered Cause, appeals to this Honorable Court's, wisdom and justice, in the law. The Appellant, prays that justice is achieved here and **WHEREFORE PREMISES CONSIDERED**, Appellant, Perry Osborne Pro Se', respectfully moves the Honorable Court as follows:

1. That the Plaintiff s Motion For Reconsideration, For Stay of Order And Other Relief of its February 12, 2009 Order is sustained in that, the affirmance and ratification of the December 4, 2008 foreclosure sale is vacated and set aside.
2. Due to the Plaintiff's medical condition, (two broken teeth), the Chancery Judge should have granted the requested Continuance, not granting the Continuance, forced Plaintiff, who was Pro Se' at that time and this, effectively precluded the Plaintiff from having a fair opportunity to present his claims and defenses, which that, in turn denied Plaintiff his civil rights to, due process of the law. Due to this, all acts and proceedings, with any relation to this, this includes but not limited to, the affirmance and ratification of the December 04, 2008 , defective and procedurally deficient foreclosure; shall be sustained and this case, dismissed with prejudice to the Appellant.
3. The mandate for Plaintiff to vacate the premises within sixty (60) days is also vacated and set aside.

CERTIFICATE OF SERVICE

I Perry Osborne, Appellant Pro Se', do hereby certify that on this day mailed by first class United States mail, postage prepaid, a true and correct copy of the above foregoing

CONCLUSION to the following addresses:

Ms. Kathy Gillis
Mississippi Supreme Court Clerk
P O Box 249
Jackson MS 39205-0249

Attorney Glenn H. Williams
Trustee and Attorney for G. Rives Neblett
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