

**IN THE SUPREME COURT OF MISSISSIPPI**

**MARK S. BOUNDS REALTY PARTNERS, INC.**

**PLAINTIFF/APPELLANT**

**VS.**

**NO. 2009-TS-00493** **E**

**MELANIE LAWRENCE**

**DEFENDANT/APPELLEE**

**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 justices of the Supreme Court and/or judges of the Court of Appeals may evaluate possible disqualification or recusal.

1. Plaintiff/Appellant Mark S. Bounds Realty Partners, Inc.
2. Mark S. Bounds
3. Defendant/Appellee Melanie Lawrence
4. Counsel for Plaintiff/Appellant Gregory M. Johnston  
Gregory M. Johnston, Attorney at Law, P.C.
5. Counsel for Defendant/Appellee Kathleen Cook, John D. Cosmich,  
Cosmich, Simmons, & Brown, PLLC.
6. Trial Judge, Honorable Janace Goree,  
Chancellor, Madison County, Mississippi

  
KATHLEEN COOK, MSB.# [REDACTED]  
COSMICH, SIMMONS, & BROWN, PLLC.

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## **I. STATEMENT OF THE ISSUES**

1. Whether the Chancellor's award of attorney's fees is improper and should be reversed.

## **II. STATEMENT OF THE CASE**

### **A. NATURE OF THE CASE**

This is an appeal from a Chancery Court's award of attorney's fees as sanctions against the Chancery Court Plaintiff, Appellant Mark S. Bounds Realty Partners, Inc. [hereinafter "Bounds"].

Bounds filed preemptive litigation in Chancery Court in anticipation of Melanie Lawrence, his former employee, filing suit in County Court requesting a jury trial. Both parties filed suit the same day in their respective forums.

The basis of the Chancery Court's award of attorney's fees to the Defendant, Ms. Lawrence, was that the Chancery Plaintiff, Bounds, deliberately and tactically calculated a "race to the courthouse" scenario to obtain "priority jurisdiction" in order to avoid a jury trial in County Court. Bounds brought before the Chancery Court claims at law based in tort and contract, which were claims clearly outside the subject matter jurisdiction of the Chancery Court. Finding it had no subject matter jurisdiction over Bounds' claims, the Chancery Court transferred those claims to be consolidated with Lawrence's County Court matter, and in so doing, awarded attorney's fees to Lawrence for Bounds' unnecessary expansion of judicial proceedings in racing to the wrong courthouse to avoid a jury.

### **B. COURSE OF PROCEEDINGS AND DISPOSITION IN THE LOWER COURT**

On July 31, 2008, Melanie Lawrence filed suit in the County Court of Madison County, Mississippi for breach of contract against the Appellant, Mark S. Bounds Realty Partners, Inc., her former employer. [CP at 27-31] On the same day, Bounds filed suit in the Chancery Court of Madison County for intentional torts, negligence, breach of contract, and declaratory judgment and other relief related to breach of contract. [CP at 1-7] Thereafter, two concurrent cases

existed, one being Lawrence's case in the County Court, and the other being Bounds' case brought in the Chancery Court. [CP at 1-7, 27-31] It is believed that Bounds filed first.

On August 29, 2008, Bounds, the County Court Defendant, moved to dismiss the County Court action for lack of subject matter jurisdiction, claiming that the Chancery Court matter took "priority jurisdiction" due to having been filed first in time. [CP at 32-34] Lawrence, the County Court Plaintiff, responded to the Motion to Dismiss in County Court on September 10, 2008, asserting that the Chancery Court was without subject matter jurisdiction and could thus have no priority jurisdiction, regardless of who filed first. [CP at 36-38] Bounds never set his County Court Motion to Dismiss for hearing, and the Motion was deemed abandoned. [CP at 41]

On October 14, 2008, Melanie Lawrence, as Chancery Court Defendant, filed her Motion to Dismiss for Lack of Subject Matter Jurisdiction and For Other Relief in the Chancery Court. [CP at 19-26] Lawrence again asserted that the Chancery Court was without proper subject matter jurisdiction over the claims of the parties (which were claims at law) regardless of the "race to the court house" to establish "priority jurisdiction." *Id.* Ms. Lawrence asked the Chancellor to award attorneys fees based on the Appellant's calculated race to the wrong courthouse, which was a deliberate tactic employed solely to avoid a jury trial. [R at 5, 13, 14, 16, 17] Bounds, as the Chancery Plaintiff, filed a response in opposition to Lawrence's Motion on December 2, 2008, the day before the hearing. [CP at 41-44]

Melanie Lawrence's Motion to Dismiss came before the Chancery Court for hearing (Chancellor Goree) on December 3, 2008. [R at 1] Chancellor Goree found that the Chancery Court had no subject matter jurisdiction over Bounds' claims, and she transferred those claims to be consolidated in the County Court. [R at 17-18][CP at 45-46] Judge Goree additionally granted Ms. Lawrence's request for attorney's fees based on the evidence in court that the sole

purpose behind filing the case in Chancery Court was that Bounds did not want a jury trial and likely based on other conduct by Bounds. [R at 5] Judge Goree's Order was entered on March 3, 2009. [CP at 45-46]

Bounds filed his Notice of Appeal on March 25, 2009, appealing only the award of attorney's fees to Lawrence. [CP at 47] Mr. Bounds does not appeal the issue of the Chancery Court's subject matter jurisdiction. *Id.*

The County Court matter is still pending before Judge Edwin Hannan.

### **C. FACTS**

The Appellee, Melanie Lawrence, is a former long-time employee of the Appellant realty company, Mark S. Bounds Realty Partners, Inc. [CP 8-12] [R at 3] Following her decision to leave Bounds' employment, a dispute arose between the parties regarding fees owed to Ms. Lawrence. *Id.* Ms. Lawrence ultimately sought the advice of counsel, having not been able to reach any resolve with Bounds on her own in spite of numerous attempts.

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Ms. Lawrence instructed her counsel to give Bounds, her long-time employer, another opportunity to resolve the issues short of resorting to litigation. [R at 3] Ms. Lawrence's counsel drafted a letter to Bounds and attached an unsigned draft of the County Court Complaint. [CP 13-18][R at 3-4]

Although Bounds has continuously characterized this letter as hostile communication, Lawrence maintains she was simply seeking in good faith to be sure before she filed suit, that Bounds did not desire to reach a resolution or that one was not possible between them. [CP at 3][R at 4, 11]

Following his receipt of the letter, Bounds' counsel, Gregory Johnston, contacted Lawrence's counsel, Kathleen Cook. [CP at 20] [R at 4, 13,16] Mr. Johnston inquired as to the



exact date and time Ms. Cook intended to file the Complaint. [CP at 20] Ms. Cook stated to Mr. Johnston that she would file the Complaint on the afternoon of July 31, 2008 in the event Bounds had no desire to attempt any resolve. [R at 4] Mr. Johnston stated that he would contact Ms. Cook before that time after speaking to his client.

In fact, Mr. Johnston filed suit in Chancery Court on July 31, 2008, and attempted to document the exact time of filing in the Chancery Court. [CP at 1-7, 33] [R at 4-5] Johnston also stated he checked with the County Clerk to ensure that he had filed first. [CP at 33] [R at 4-5] An office runner for Ms. Cook filed the County Court Complaint that same day, as Ms. Cook did not hear from Mr. Johnston regarding any potential for resolution. The exact time of filing of the County Court Complaint is unknown. [CP at 20] Mr. Bounds' Chancery Complaint sought \$100,000 (one hundred thousand dollars) in damages against Ms. Lawrence for claims in tort and based in contract. [R at 5] [CP 1-7]

Ms. Cook proceeded to serve the County Court Summons and Complaint on the Defendant realty company after being notified sometime on or about July 31 that the Chancery Complaint had been filed. [CP at 20] [R at 5-6] On the face of the Chancery Complaint, Ms. Cook felt the Chancery Court lacked subject matter jurisdiction. [CP at 1-7]

Bounds, filed a Motion to Dismiss in the County Court, which was never set for hearing. [CP at 41] Bounds argued vehemently in his Motion that he was "first to file" in the Chancery Court and that he won the race to the courthouse for "priority jurisdiction." [CP at 32-34] Lawrence responded to the Motion that there could be no priority jurisdiction in the Chancery Court, which had no subject matter jurisdiction over the claims, claims at law in contract and in tort. [CP at 36-38] Lawrence argued that Bounds essentially raced to the wrong courthouse. *Id.* Bounds effectively abandoned his Motion.

Bounds subsequently, served Ms. Lawrence with the Chancery Complaint and Summons on September 17, 2008 via a constable who entered her home uninvited and without a warrant and cuffed her, assaulting and battering her in front of her three children. [R at 9, 12-13] The Constable, Matt Shackleford, waited approximately 15-20 minutes after charging into Ms. Lawrence's home before he identified himself as being there to serve process. *Id.* The return of service for Ms. Lawrence indicates that Mr. Shackleford was paid \$489.90 dollars to serve process on Ms. Lawrence. *Id.* The return of service indicates no other process server other than Shackleford. The Appellant has never offered any evidence of any prior attempts to serve Ms. Lawrence or her counsel on her behalf. *Id.* In fact, Mr. Johnston made no attempts to send waiver and acknowledgment to Ms. Lawrence or even to inquire whether Ms. Cook was authorized to receive service of process for Ms. Lawrence. The Appellant was at all relevant times aware of Ms. Lawrence's work and home addresses and her approximate work schedule. [CP at 1] No attempts were made to locate Ms. Lawrence at work. The Appellant claims Tyler Miller attempted to serve Lawrence 13 times, however, the return of service identifies Miller as a notary and identifies Shackleford as the sole process server. Bounds does not deny the allegations against Shackleford, but instead claims Shackleford's conduct was due to Lawrence being belligerent when he attempted to serve her. [R at 9, 12-13]

Subsequently, after Lawrence was served process, she filed a Motion to Dismiss in the Chancery Court based on lack of subject matter jurisdiction and requested attorneys fees for the race to the wrong courthouse, claiming Bounds unnecessarily expanded the legal proceedings. [CP at 19-20] Prior to hearing on the Motion in Chancery Court, Mr. Johnston sent an e-mail to Ms. Cook stating that his purpose for filing in Chancery Court was to ensure a bench trial and avoid a jury trial. [R at 5] The day prior to the hearing, Ms. Cook received proof of service for

Pro. 52 (comment), citing *Tricon Metals & Services, Inc. v. Topp*, 516 So.2d 236, 238 (Miss. 1987).

However, in cases without significant complexity, the appellate court will not interfere with a trial court's exercise of its discretion unless that discretion be abused. *Id.* at 239. An appellate court may assume that the judge made determinations of fact sufficient to support its ruling where no specific finding has been made. *Eatman v. City of Moss Point*, 809 So.2d 591, 593 (Miss. 2000) (rehearing denied), citing *Love v. Barnett*, 611 So.2d 205, 207 (Miss. 1992); *Walters v. Patterson*, 531 So.2d 581, 583 (Miss. 1988).

Similarly, Rule 4.01 of the Uniform Chancery Court Rules provides:

In all actions where it is required or requested, pursuant to M.R.C.P. 52, the Chancellor shall find the facts specially and state separately his conclusions of law thereon. The request must be made either in writing, filed among the papers in the action, or dictated to the Court Reporter for record and called to the attention of the Chancellor.

Rule 4.02 of the Uniform Chancery Court Rules similarly provides in relevant part that “The Chancellor shall not be bound to render a formal opinion in deciding any action except as required by the preceding rule.”

This appeal is taken from a Chancellor’s award of attorneys fees as a sanction against Bounds based on his actions in unnecessarily expanding judicial proceedings. Bounds does not dispute that he deliberately filed suit in a court having no subject matter jurisdiction, that he did so in order to avoid a jury trial, that he created a “race to the wrong court house”, or that Lawrence incurred attorneys fees as the result of the jurisdictional race. See *Amended Brief of the Appellant*. Therefore, as the matter *sub judice* is not one of significant complexity, Rule 52 does not require the Chancellor to make specially stated findings absent the request of a party. Bounds made no request of the Court for any additional findings of fact or conclusions of law. The

findings of the Chancellor, if any are absent, may be inferred or assumed sufficient to support her ruling. *Eatman*, 809 So.2d at 593 (citations omitted); *Tricon*, 516 So.2d at 238; *Pace v. Owens*, 511 So.2d 489, 492 (Miss. 1987); Miss.R.Civ Pro. 52(a) and comment. The Chancellor is in the best position to determine the reasonableness of attorneys fees, and the appellate court should not arbitrarily substitute its own judgment for that of the Chancellor. *Faris v. Jernigan*, 939 So.2d 835, 841 (Miss. Ct. App. 2006), citing *Mabus v. Mabus*, 910 So.2d 486, 488 (Miss. 2005).

## **2. The proper standard of review is abuse of discretion.**

The standard of review for the imposition of sanctions pursuant to Mississippi's Litigation Accountability Act is abuse of discretion. *Leaf River Forest Products, Inc. et al. v. Deakle*, 661 So.2d 188, 197 (Miss. 1995). Similarly, a Chancellor has broad discretion in awarding attorneys fees, and the standard of review for an award of attorneys fees is abuse of discretion. *Faris*, 939 So.2d at 840, citing *Walters v. Walters*, 383 So.2d 827, 828 (Miss. 1982); *Regency Nissan Inc. v. Jenkins*, 678 So.2d 95, 103 (Miss. 1995). The Court should reverse an award of sanctions only where the trial court abused its discretion, so long as the correct legal standards were employed. *Id.* at 196, citing *January v. Barnes*, 621 So.2d 915, 921 (Miss. 1992), quoting *Nationwide Mut. Ins. Co. v. Evans*, 553 So.2d 1117, 1119 (Miss. 1989).

## **IV. SUMMARY OF THE ARGUMENT**

The Chancery Court did not abuse its discretion in awarding attorneys fees to Melanie Lawrence. Bounds, in his Brief of the Appellant, articulates three reasons why the award of attorneys fees is improper. Each of these are without merit.

Bounds claims that the Chancellor has no authority to make the award absent a statutory authority, contract provision, or justification for punitive damages. However, this claim is erroneous. Courts have statutory authority pursuant to the Litigation Accountability Act to

sanction unnecessary expansion of legal proceedings. Courts, pursuant to rules of Court, have the authority to sanction conduct of litigants and counsel. In fact, Courts are vested with an inherent authority to exact sanctions or penalties, which stands independent of statutes and of promulgated rules. Bounds' brief ignores the Court's authority and mis-applies the law.

Bounds claims second that he committed no wrongdoing to justify an award of attorneys fees, acknowledging the punitive nature of the award. He simply ignores in his brief that he deliberately raced to the wrong courthouse, that he admitted doing so to avoid a jury, and that the manner in which Lawrence was served process is highly suspect according to his own return of service. In his calculated conduct, Bounds simply rolled the dice on the issue of the Court's authority to sanction. He now seeks to avoid the \$1250.00 award of attorneys fees by filing an un-meritorious appeal, the cost of which most likely exceeds the award of the Chancellor for Ms. Lawrence.

Bounds finally and thirdly claims that the Chancellor failed to make findings of fact and conclusions of law, thereby justifying a reversal of the Court's award of attorneys fees. The standard of review for an award of sanctions is abuse of discretion. In a matter lacking significant complexity, the Chancellor is not required to make specific findings absent a request by a party to do so. Having a strong position from which to determine the propriety of her jurisdiction over subject matter, the Chancellor, in fact, did articulate findings related to the Court's jurisdiction, and additional findings of the Chancellor are easily implied or inferred by the evidence, pleadings, and arguments before her. Bounds gives no authority for his assertion that the Chancellor should be reversed for lack of specially stated findings of fact and conclusions of law.

Chancellor Goree, in the best position to determine her subject matter jurisdiction, to view the evidence, and to hear the arguments of counsel, and to judge the conduct of her litigants, committed no reversible error. Bounds' relief in taking this appeal should be denied.

## **V. ARGUMENT**

### **A. A Chancellor's ability to award attorneys fees is abundantly supported by statute, rules of court, and by the court's inherent authority.**

The Appellant, Bounds, improperly asserts that no legal authority exists to support an award of attorneys fees. Bounds argues in his brief (page 5) that "[a]ttorneys fees can only be awarded pursuant to relevant contractual provision, statutory authority, or where punitive damages are also proper." *Industrial Contractors v. Tim Mote Plumbing*, 962 So.2d 632, 638 (Miss. Ct. App. 2007), citing *Hearn v. Autumn Woods Office Park Property Owner's Ass'n*, 757 So.2d 155, 164 (Miss. 1999). However, Bounds erroneously relies on a citation which applies to a litigant attempting to recover attorneys fees in an action for breach of contract. *Id.* The cited case does not apply to a court's ability to exact sanctions including attorneys fees based on the conduct of a litigant.

Even if the Appellant's cited case law was properly applicable to this matter, statutory authority for an award of attorneys fees in this case undoubtedly does exist in the form of Mississippi's Litigation Accountability Act.

Miss. Code Ann. § 11-55-5(1), the Litigation Accountability Act provides:

Except as otherwise provided in this chapter, in any civil action commenced or appealed in any court of record in this state, the court shall award, as part of its judgment and in addition to any other costs otherwise assessed, reasonable attorney fees and costs against any party or attorney if the court, upon motion of any party or on its own motion finds that an attorney or party brought an action or asserted any

claim or defense, that is without substantial justification , or if that action, or any claim or defense asserted, was interposed for delay or harassment, or if it finds an attorney or party unnecessarily expanded the proceedings by other improper conduct including, but not limited to, abuse of discovery procedures available under the Mississippi Rules of Civil Procedure.

(emphasis added).

In addition, the Mississippi Supreme Court has stated that “where there is no specific authority for imposing sanctions, courts have an inherent power to protect the integrity of their processes and may impose sanctions in order to do so.” *Bill Wyssbrod d/b/a W.W. Companies v. Wittjen et al.*, 798 So.2d 352, 368 (Miss. 2001). “Where a party’s intentional misconduct causes the opposing party to expend time and money needlessly, then attorneys fees and expenses should be awarded to the wronged party.” *State of Ms. et al. v. Brandon C. Blendon*, 748 So. 2d 77,87 (Miss. 1999).<sup>1</sup>

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**Melanie Lawrence’s Motion To Dismiss Bounds’ Chancery matter for lack of subject**

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matter jurisdiction alleged directly that Bounds raced to wrong courthouse and unnecessarily expanded the proceedings. [CP at 6-7] Melanie Lawrence thereby sought attorneys fees pursuant to the Litigation Accountability Act, Miss. Code Ann. § 11-55-5(1), as well as pursuant to the Court’s inherent authority to sanction the conduct of its litigants and to award attorneys fees to a party wronged by the unnecessary expense of time and money. *Blendon*, 748 So.2d at 87. Bounds’ argument that the Chancellor was without authority to make the award is simply incorrect and without merit.

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<sup>1</sup> Similarly, rules of court provide additional authority for courts to award attorneys fees and/or to sanction various undesirable conduct of litigants and/or counsel, including abuses of the discovery process, frivolous pleadings etc...

**B. The Chancellor did not abuse her discretion in finding the Appellant had committed an act or acts warranting an award of attorneys fees.**

Chancellor Goree was in the best position to determine whether sufficient misconduct existed in order for her enact sanctions against Bounds, whether pursuant to the Litigation Accountability Act or pursuant to the authority inherent in any court of law to enact sanctions for the conduct of litigants.

The hearing transcript from December 2, 2008 reflects acts warranting an award of attorneys fees. Most notably, Bounds made a strategic decision to file suit in a court without subject matter jurisdiction over the claims asserted. Bounds knew or should have known that the Chancery Court is a court of limited jurisdiction as defined by Mississippi's Constitution and by statute.<sup>2</sup> Bounds' claims, claims at law, were based in contract and in tort, and clearly did not fall under the umbrella of the Chancery Court's equity jurisdiction. Lawrence did not take issue with the fact that Bounds conducted a "race to the courthouse". She took issue with

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the fact that Bounds orchestrated a race to the wrong courthouse in order to avail himself of the limited jurisdiction of the Chancery Court and defeat her right to a jury trial. [R at 17] Counsel for Bounds stated at the hearing that his client made a "strategic decision to bring the claims [Bounds] uncovered during his investigation of Ms. Lawrence's employment file before this Court." [R at 14] Counsel for Bounds stated further, "...my client did make a strategic decision to file a Complaint in Chancery Court." [R at 13]

The purpose behind Bounds' strategic decision is clear and unmistakable. In his November 3, 2008 email to Lawrence's Counsel, Bounds' counsel stated, "In lieu of our

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<sup>2</sup>Miss. Code Ann. § 9-5-81; Section 159 of the Constitution of the State of Mississippi



arguing your motion to dismiss, I have a suggestion. My client's primary purpose for filing was to ensure a bench trial in order to keep the litigation costs down as compared to a jury trial. If your client would agree to a bench trial in county court, we will voluntarily dismiss our action in Chancery and file a counterclaim in County." [R at 5] The effect of accepting Bounds' offer on November 3 would have been Lawrence surrendering her right to a jury trial on her own claims as well as those brought against her by Bounds in the amount of \$100,000 (one hundred thousand dollars). [R at 5, 15] Such was the purpose behind Bounds' strategic decision to race to the wrong courthouse. Had Bounds raced to a court of proper subject matter jurisdiction, he would have been stuck with a jury on all of the claims. The Court found Lawrence's argument well taken that Bounds "deliberately and unnecessarily expanded the legal proceedings as a tactical matter, and it has cost [Lawrence] money as far as having to defend in two courts based on the jurisdictional issue." [R at 16-17]

Furthermore, Bounds did not dismiss the Chancery proceedings after becoming aware that his legal position regarding subject matter jurisdiction was unsupported.<sup>3</sup> Instead, of dismissing the Chancery Complaint, Bounds proceeded to serve it on Lawrence at the cost of \$489.90, according to the proof of service. [R at 9]

In fact, at the time of Lawrence's service of process, she entered a room in her home to find a strange man, having apparently pushed his way past her minor daughter to enter. Lawrence demanded that the man identify himself and that he leave. [9-10] Instead of serving Lawrence and exiting the home, Shackleford reportedly cuffed Lawrence and proceeded to

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Failure to dismiss a claim later learned to be frivolous may be considered an unnecessary expansion of proceedings pursuant to the Litigation Accountability Act, Miss. Code Ann. §11-55-5(1). *Eatman*, 809 So.2d at 597 (citing *In re Fankboner*, 638 So.2d 493, 498 (Miss. 1994)).

frighten her and the children for 15 to 20 minutes before stating to Lawrence that he was there to serve her papers. *Id.* Shackleford, according to the proof of service, received \$489.90 to serve Lawrence a copy of the Summons and Complaint. *Id.* The return of service does not indicate any prior attempts to serve Lawrence or any attempts to serve her by anyone other than Shackleford on a single occasion. [R at 9-10, 12-13] Bounds does not deny that Shackleford cuffed and detained Lawrence or that he entered without a warrant. *Id.* Bounds claims that Lawrence evaded service of process 13 times and that Lawrence became belligerent with Shackleford.

The uncontroverted facts are that Bounds never attempted to serve Lawrence at work or by waiver and acknowledgement through mail or by serving her through counsel, though he knew each of those addresses. [CP at 1] Bounds never made any inquiry whether Lawrence's counsel was authorized to accept service of process.

The Chancellor's conclusion that Bounds' conduct warranted an award of attorneys fees is well supported by the record and was a conclusion within her discretion.

**C. Any failure by the Chancellor to specially articulate findings of fact or conclusions of law does not render her award of attorneys fees in this matter an abuse of discretion.**

Judge Goree specifically found that the Chancery Court is a court of limited jurisdiction, that Bounds brought primarily claims at law, and the only equitable claim brought arose from whether or not an oral contract existed between the parties. [R at 17-18] She found that the Defendant, Lawrence's, Motion was well taken and should be granted, ordering \$1,250 (one thousand two hundred fifty dollars) in attorneys fees to Lawrence. Based on the pleadings of Lawrence that Bounds' race to the wrong courthouse unnecessarily

expanded the proceedings and based on the argument and evidence presented by Lawrence's counsel at hearing, the appellate court can reasonably infer that the Chancellor made determinations with respect to the award of attorneys fees sufficient to support her ruling. *Eatman*, 809 So.2d at 593. Chancellor Goree acted in accordance with Rule 52 of the Mississippi Rules of Civil Procedure and Rules 4.01 and 4.02 of the Uniform Chancery Court Rules. The Mississippi Supreme Court, on the issue of a chancellor's discretion in absence of specific findings of fact, clearly delineates as follows:

Under this Court's limited scope of review, findings of fact made by a chancellor will not be disturbed if this Court finds substantial evidence supporting these factual findings. *Tedford v. Dempsey*, 437 So.2d 410, 417 (Miss. 1983) (citing *Anderson v. Watkins*, 208 So.2d 573, 575 (Miss. 1968); *Culbreath v. Johnson*, 427 So.2d 705, 707-708 (Miss. 1983)). As to issues of fact where no specific findings have been articulated by the chancellor, this Court proceeds upon the "assumption that the chancellor resolved all such fact issues in favor of appellee," *Tedford*, 437 So.2d at 417; *Harris v. Bailey Avenue Park*, 202 Miss. 776, 791, 32 So.2d 689, 694 (1947); *Cotton v. McConnell*, 435 So.2d 683, 685 (Miss. 1983), or as a minimum, in a manner which would be in line with the decree. *Tedford*, 437 So.2d at 417. "If there be substantial evidence undergirding such a 'presumed finding', we will not disturb it." *Tedford*, 437 So.2d at 417. Additionally, where the chancellor reaches a correct result in accordance with the law and facts, this Court will affirm the result even though "a wrong reason be assigned." *Tedford*, 437 So.2d at 418; *Huffman v. Griffin*, 337 So.2d 715, 723 (Miss. 1976).

*Love v. Barnett*, 611 So.2d 205, 207 (Miss. 1992).

The Chancellor's lack of specially articulated findings related to the award of attorneys fees, if any, is not per se a sufficient basis to warrant reversal, and the Appellant submits no authority otherwise. The record is sufficient to support the Chancellor's ruling in favor of Lawrence. Her discretion to do so should not be disturbed.



## VI. CONCLUSION

The Appellant, Bounds, cites no authority sufficient to warrant reversal of Chancellor Goree's award of attorneys fees to Lawrence. Bounds filed a Complaint in a chancery court that he knew or reasonably should have known consisted of claims outside the subject matter jurisdiction of the Court. More importantly, he admittedly took this course of action as a strategic and tactical decision and did so in order to avoid a jury trial on Lawrence's claims and his own claims. Lawrence endured abusive service of process and was required to incur time and expense to defend the jurisdictional issue in two forums.

The Chancery Court has statutory authority pursuant to Mississippi's Litigation Accountability Act as well as inherent authority to award attorneys fees to a party wronged by unnecessary expense in litigation. The record supports the Chancellor's determination to award attorneys fees to Lawrence. Any findings of fact or conclusions of law absent from the Chancellor's Order are easily inferred from the record to support her decision. Bounds offers no authority that the Chancellor should be reversed for any failure to make specifically articulated findings.

Chancery courts are courts of limited jurisdiction. The chancellor is in the best position to determine whether her process or her forum has in any manner been abused and to what extent a sanction may be warranted. Chancellors have broad discretion to make an award of attorneys fees, and the Appellant fails to show any abuse of discretion by Chancellor Goree.

Respectfully Submitted, this the 2<sup>nd</sup> day of December, 2009.

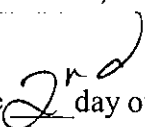
By:   
KATHLEEN COOK, MSB#   
COSMICH, SIMMONS, & BROWN, PLLC.  
120 NORTH CONGRESS ST., SUITE 400  
JACKSON, MS. 39201  
(PO BOX 22626 JACKSON, 39225-2626)  
TELEPHONE (601)863-2100  
FACSIMILE (601)863-0078

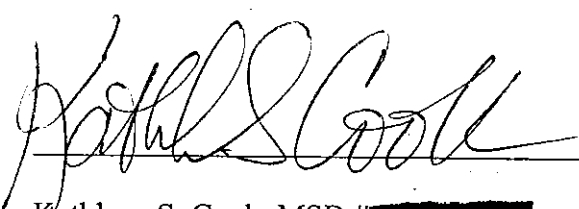

Counsel for the Appellee

**CERTIFICATE OF SERVICE**

I, Kathleen S. Cook, Esq., do hereby certify that I have this day mailed a true and correct copy of  
the above and foregoing to :

Gregory M. Johnston, Esq.  
732 Magnolia St.  
PO Box 1691  
Madison, Ms. 39110

This, the  day of December, 2009

  
Kathleen S. Cook, MSB #   
COSMICH, SIMMONS & BROWN