

IN THE SUPREME COURT OF THE STATE OF MISSISSIPPI

GILDA H. DAVIS, ET AL.

APPELLANTS

VERSES

BILOXI PUBLIC SCHOOL DISTRICT, BILOXI PUBLIC SCHOOL BOARD, BOARD OF TRUSTEES, AND DR. PAUL A. TISDALE, SUPERINTENDENT, BILOXI PUBLIC SCHOOL DISTRICT, DR. ROBERT W. BOWLES, DEPUTY SUPERINTENDENT, BILOXI PUBLIC SCHOOL DISTRICT, DR. LARRY DRAWDY, (PAST SUPERINTENDENT) BILOXI PUBLIC SCHOOL DISTRICT, LAWYER GERALD BLESSEY (PAST BILOXI PUBLIC SCHOOL BOARD ATTORNEY), BILOXI PUBLIC SCHOOL DISTRICT, BONNIE GRANGER, COMPTROLLER/DIRECTOR OF BUSINESS MANAGEMENT) AND SUSAN BRAND, PRINCIPAL, BEAUVOIR ELEMENTARY SCHOOL, BILOXI PUBLIC SCHOOL DISTRICT, INDIVIDUALLY, AND JOHN DOE, & JOHN DOE, INDIVIDUALS

APPELLEES

NO.2010-CA-00338

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

**APPELLANT, GILDA H. DAVIS
APPELLANT'S BRIEF WITH NOTARIZED AFFIDAVIT**

ORAL ARGUMENT REQUESTED

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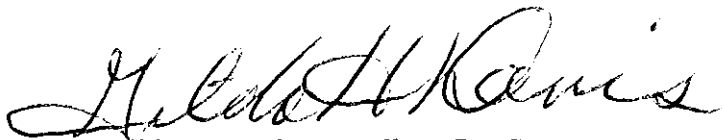
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ORAL ARGUMENT REQUESTED

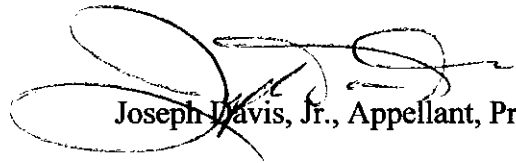
We, Gilda H. Davis and Joseph Davis, Jr., Appellants are requesting Oral Argument to present the issues, Relevant Evidence and Facts to the Supreme Court of the State of Mississippi to clearly, accurately and truthfully present our case to the Court. The facts have been misrepresented by the lawyers in this case

The Appellants, Gilda H. Davis and Joseph Davis, Jr., submit the Record Excerpts with Exhibits and Affidavit(s) pursuant to MRAP 31. We, Gilda H. Davis and Joseph Davis, Jr., pray that Oral Argument is granted to prevent any further manifest injustice in our case.

Respectfully Submitted,

A handwritten signature in cursive script, appearing to read "Gilda H. Davis".

Gilda H. Davis, Appellant, Pro Se

A handwritten signature in cursive script, appearing to read "Joseph Davis, Jr.". The signature is more stylized and includes a large loop at the end.

Joseph Davis, Jr., Appellant, Pro Se

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ADDENDUM

Statement Submitted In Lieu of Appellant Joseph Davis, Jr.,
Appellants' Brief and noted by the County Court Judge Gaston H. Hewes, Jr.,
In The Appeal Record TAB 8, Excerpt from the Transcript of Hearing, In the
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presided over and Heard by Judge Hewes, on July 3, 2008 - Gilda H. Davis and
Joseph Davis, Jr., vs Biloxi Public School District, et al Cause Number: D2402-07-0342,
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STATEMENT OF THE ISSUES

I.

I, Gilda H. Davis, Employee, fully vested and tenured in the Biloxi Public School District was injured on the job at Beauvoir Elementary School, Biloxi Public School District on May 26, 2004, Refer to Appeal Record Tab 6, EXHIBIT -D, Page 136, Family Practice Clinic, Keesler AFB, Ms QUOTE: SCHOOL/WORK ABSENCE EXCUSE (INJURED ON THE JOB ON MAY 26, 2004, WAS TAKEN FROM BEAUVOIR ELEMENTARY SCHOOL TO THE HOSPITAL ON MAY 26, 2004). Employee, Gilda H. Davis did file the accident Report with the Biloxi Public School District, through the principal, Susan Brand and through the Payroll and Insurance Department, Ms. Seymour.

II.

EVIDENTIARY SUPPORT (GENUINE ISSUES OF MATERIAL FACT)

In support of this Motion, The Plaintiff Gilda H. Davis and Joseph Davis, Jr., Plaintiff, Pro Se, refers the Court to the Attached Affidavit in Support of Plaintiff's Motion For Summary Judgment and the following Exhibits (Genuine Issue(s) of Material Facts.

A. Complaint, Gilda H. Davis and Joseph Davis Jr. verses Biloxi Public School District et al. Case Number D2402-07-00342, In The County Court of Harrison County, Second Judicial District, Biloxi, Mississippi, submitted on May 25, 2007, Filed/Stamped May 30, 2007, by Lisa Boudreaux, Clerk of County Clerk, a copy which is attached hereto Exhibit "A". (See Record Excerpts)

B. Affidavit of Gilda H. Davis and Affidavit of Joseph Davis, Jr., Filed/ Stamped In the County Court of Harrison County Mississippi on August 28, 2007, copies of which are attached hereto as Exhibit "B". (See Record Excerpts)

C. Non-Renewal letter dated April 29, 2004 to Employee of the Biloxi Public School District, Gilda H. Davis, signed by Robert W. Bowles, Deputy Superintendent, Biloxi Public Schools. **(Plaintiff Gilda H. Davis was injured on the job at Beauvoir Elementary School on May 26, 2004), a copy which is attached hereto as Exhibit "C". (See Record Excerpts)**

D. **Plaintiff, Gilda H. Davis, Injury on the Job, Beauvoir Elementary School, Biloxi Public School District, seen in the Family Practice Clinic, Keesler AFB, Ms, May 26, 2004, Excused from work May 26th and May 27, 2004, due to back injuries, a copy which is attached hereto as Exhibit "D". (See Record Excerpts)**

E. Keesler Medical Center, Radiologic Examination Report, **Exam Date May 26, 2004, @ 1504, Plaintiff, Gilda H. Davis (patient) injured on the job, Beauvoir Elementary School (May 26, 2004). (See Record Excerpts)**

Keesler Medical Center, Radiologic Examination Report, Exam Date June 8, 2004, @ 1430, Plaintiff Gilda H. Davis, (patient) injured on the job, at Beauvoir Elementary School (May 26, 2004). **(See Record Excerpts)**

Physical Therapy Consultation, Emergency Room/Family Practice, June 29, 2004, from injury on the job, at Beauvoir Elementary School (May 26, 2004).

Physical Therapy Consultation - Continuation Sheet

July 8, 2004, 0800

July 13, 2004, 0800

July 15, 2004, @ 0830

Summary of Exercise - July 1, 2004

Copies of which are attached hereto as Exhibit "E". **(See Record Excerpts)**

F. American Fidelity Assurance Company, Letter dated July 23, 2001, Gilda Davis, Hospital Gap Plan Policy - Customer #2622318, Accident Benefit NOT PAID by American Fidelity Assurance Company, even though all claims were filed by Plaintiff through the Biloxi Public School District (Payroll and Insurance Office) and the American Fidelity Assurance Company, a copy of which is attached hereto as Exhibit "F". **(See Record Excerpts)**

G. Office of Social Security PEBES Online Response, for Plaintiff, Gilda H. Davis, Plaintiff, Reflecting Earning for use in Social Security Computation from May 26, 2004 to June 17, 2008, the Plaintiff Gilda H. Davis, incurred \$60, 447.00 loss in earnings in Social Security Benefits, copies of which is attached hereto as Exhibit "G". **(See Record Excerpts)**

H. State and School Employees' Health Insurance Plan - Continuation Coverage Form, Gilda H. Davis, Employee, Name of Employer, Biloxi Public Schools, date Employee, Gilda H. Davis was notified by Biloxi Public Schools , June 23, 2004. Continuation Coverage will end November 30, 2005. (State and School Employees' Health Insurance Plan - Continuation Coverage Form and a Copy of the envelope is affix, postmark June 25, 2004) copies of which are attached hereto as Exhibit "H". **(See Record Excerpts)**

I. Termination/Separation/Resignation/Re-employment-Classified Employees Biloxi Public School District Policy - **Adopted June 14, 2005, Policy GCNA 3 Pages**, copies of which are attached hereto as Exhibit "I". **(See Record Excerpts)**

NOTE:

**THE BILOXI PUBLIC SCHOOL DISTRICT POLICY , GCNA, WAS
ADOPTED AFTER THE NO JUST CAUSE TERMINATION (NON-
RENEWAL) OF PLAINTIFF GILDA H. DAVIS.**

J. Motion For Plaintiff's Request For Trial By Jury, Gilda H. Davis and Joseph Davis, Jr., verses Biloxi Public School District et al. Cause Number D2402-07-00342, In the County Court of Harrison County, Biloxi, Mississippi filed a Motion for Trial By Jury, Filed/Stamped January 26, 2008, **(The Motion is still Opened and has not been ruled upon)**, copies of which are attached hereto as Exhibit "J". **(See Record Excerpts)**

III.

The most compelling issue(s) that the lower court(s) have over looked is the issue of **Jurisdiction** of this case and **the Constitutionality Question**.

In that the Federal Court(s) has Jurisdiction over the unconstitutional violation of 42 U.S.C.A. Section , 1983, Civil Rights "Under Color of the Law". Also, The Federal Court(s) have Jurisdiction over Human Rights, pursuant to the Ninth (9th) Amendment to the Constitution of the United States of America. (To include the 13th and 14th Amendment to The Constitution of The United States of America). The Plaintiff(s) are invoking these Constitutional Rights.

The question of the constitutionality of the State Statue,§37-9-101 Long Title, (and Short Title), Mississippi Employee Education Procedures Law (MEEPL), by being vested with Seniority and vested with Tenure protections cognizable by Law and Genuine Issues of Material Facts that is filed in this Complaint.

STATEMENT OF THE CASE

I, Appellant/Employee Gilda H. Davis, Pro Se, was injured on the job, while in the employment of the Biloxi Public School District, I have not to this date been compensated by worker Compensation for my injury on the job (at work) on May 26, 2004. This injury prevented my drawing unemployment compensation, Please refer to Cited case TAB 2, Bonnie Harvey, Appellant v. Stone County School District, Appellee No. 2002-CA-01777-COA Court of Appeals of Mississippi, 862 So. 2d 545; 203 Miss. App. Lexis 938, the case was reversed and remanded, in favor of Appellant Bonnie Harvey, Pro Se who was injured. The Genuine Issues of Material fact in the Appellant/Employee, Gilda H. Davis, Pro Se and the Relevant Evidence all proves the merit of this case, as noted in the Summary Judgment filed in the County Court, that Judge Gaston H. Hewes, Jr. Arbitrary and capriciously dismissed.

Based upon the above cited law and the evidence this case does have merit and the Appellant/Employee Gilda H. Davis, Pro Se, was injured on the job (at work) and is therefore, due relief and compensation for injuries sustained on the job and damages from the Biloxi Public School her employer.

STATEMENT OF THE FACTS

On May 26, 2004, at Beauvoir Elementary School, Biloxi Public School District, Biloxi, Mississippi, in the school gymnasium, Coach Jim Taylor, Supervisor of Employee Gilda H. Davis, (Plaintiff), did order employee, Gilda H. Davis to open (pull up the flap/door) under the stage where the rolling carts containing the two (2) rows of metal folding chairs were stored and pull out the carts (each cart holds approximately 30 or more metal folding chairs) and set them (the chairs) up in the gymnasium. While backing out the Plaintiff Gilda H. Davis slipped and fell, holding on to the cart it rolled over her lower legs (pinning her under the cart). The Plaintiff, Gilda H. Davis stopped it from going any further, as she was laying on the floor she felt pain in her side, back and legs. Coach Taylor came over and asked if the Plaintiff, Gilda H. Davis was OK? And he removed the cart from over her and proceeded to ask her how she felt? Gilda H. Davis, Plaintiff responded that her side, back and legs were hurting her. Coach Taylor called someone to help and the Plaintiff was taken to Keesler Medical Center, Keesler Air Force Base, Biloxi, Mississippi. (Refer to Appeal Record TAB 6, page 135, Exhibit "D").

Plaintiff, Gilda H. Davis, filed the accident report with the Biloxi Public School District, through the Principal, Susan Brand and through the Payroll and Insurance Department, Ms. Seymour. Only, correspondence received from the Biloxi Public School District and Beauvoir Elementary School was the State and School Employees' Health Insurance Plan - Continuation Coverage Form, Gilda H. Davis, Employee, Name of Employer, Biloxi Public Schools, date employee, Gilda H. Davis, was notified by Biloxi Public Schools, June 23, 2004. Continuation Coverage will end November 30, 2005.

(State and School Employees' Health Insurance Plan - Continuation Coverage Form and a copy of the envelope is affix, postmark June 25, 2004), Please refer to Appeal Record TAB 7, Page 151Exhibit "H".

The Plaintiff, Gilda H. Davis, was injured on the job, at Beauvoir Elementary School, Biloxi Public School District, seen in the Emergency and Family Practice Clinic, Keesler Medical Center, Keesler Air Force Base Biloxi, Mississippi on May 26, 2004, and Excused from work May 26, 2004 and May 27, 2004, due to back injuries, a copy is attached hereto as Please refer to , Exhibit "D". (See Record Excerpts)

Please refer to, Exhibit "E", (See Record Excerpts) Keesler Medical Center, Radiologic Examination Report, Exam Date, May 26, 2004, @ 1504, Plaintiff, Gilda H. Davis (patient) injured on the job, Beauvoir Elementary School (May 26, 2004).

Also, Physical Therapy Consultation, Emergency Room/Family Practice, June 29, 2004, from injury on the job, at Beauvoir Elementary School (May 26, 2004). Physical Therapy Consultation sheet shows Physical Therapy provided on July 8, 2004, 0800, July 13, 2004, 0800, and July 15, 2004, 0830 hours.

The Plaintiff Gilda H. Davis, purchased an Insurance Policy through the Biloxi Public School District and it was being deducted from her salary through payroll deduction. Please refer to Appeal Record, Exhibit "F". (See Record Excerpts).

American Fidelity Assurance Company, Letter dated July 23, 2001, Gilda H. Davis Hospital Gap Plan Policy - Customer #2622318, Accident Benefit NOT PAID or responded to by American Fidelity Assurance Company, even though all claims with copies of Plaintiff, Gilda H. Davis' medical records were filed by Plaintiff through the Biloxi Public School District (Payroll and Insurance Office) and the Plaintiff, Gilda H. Davis also, filed for payment of claims with American Fidelity Assurance Company with no response from either of the two entities.

The Plaintiff, Gilda H. Davis was non-renewed with no just cause in violation of the Fair Labor Standards Act and incurred a loss in Social Security Computable Earnings from May 26, 2004 to June 17, 2008 of \$60,447.00 loss in earnings in Social Security Benefits, Please refer to Appeal Record, Exhibit "G". (See Record Excerpts)

The Plaintiff, Gilda H. Davis has been deprived of creditable service §25-11-109 under the Statues and Session Law, Title 25 Public Officer and Employees; Public Records Chapter 11 Social Security and Public Employees' Retirement and Disability Benefits.

The Plaintiff Gilda H. Davis, being a member of the Public Employees' Retirement System of Mississippi as outlined and defined in Statues and Session Law 25-11-103, as established and described in Section 25-11-101, and filling a position of "State Service" as provided for by Section 25-11-105(f), was unjustly and unlawfully deprived of her continued employment by the Biloxi Public School District non renewal of her contract (Letter of Intent), please refer to, Appeal Record, Exhibit C, (See Record Excerpts) by the Biloxi Public School District's arbitrary and capricious "withdrawal from service" or "termination from service" which is contrary to 25-11-105(f).

The Plaintiff, Gilda H. Davis was deprived of payment of her unemployment Benefits under the §71-5-501 of the Mississippi Department of Employment Security Law, as defined in Section 71-5-11(I)(15)(g), irrespective of when performed. Section 71-5-355 of the Mississippi Department of Employment Security Law provides that benefits paid to an eligible individual shall be charged against the experience rating record of the base period employer(s) unless the circumstances of the case afford the employer the right to be given a non-charge.

The Plaintiff, Gilda H. Davis has been denied her right to payment of her Unemployment Benefits due to the “No Just Cause” non-renewal of her employment intent letter (contract).

Also, the Plaintiff Gilda H. Davis, is the most SENIOR EMPLOYEE IN THE BILOXI PUBLIC SCHOOL DISTRICT.

Therefore, the Biloxi Public School District is in violation of Policy GCNA Please refer to, Exhibit “I”, (See Record Excerpts) which does not apply to this civil action since it was adopted after the unjust and unlawful non-renewal of the Plaintiff, Gilda H. Davis. Biloxi Public School District did not adopt the GCNA Termination/Separation/Resignation/Reemployment -Classified Employees policy until June 14, 2005. Please refer to, Exhibit “I”. (See Record Excerpts)

Even if the Biloxi Public School District and its Employees(Defendants named in the Complaint) Please refer to, Appeal Record, Exhibit “A”, (See Record Excerpts) are found to be discretionary in their actions (U. S. v Gaubert, 499 U. S. 315, 111 S. CT. 1267, 113 L.Ed.2d 335 (1991) , ordinary care was not used, based upon the Facts and the Evidentiary

Support (Genuine Issues of Material Fact) in Exhibits (A - J), Please refer to the Record Excerpts, “EXHIBITS A THROUGH J” submitted by the Plaintiffs Gilda H. Davis and Joseph Davis Jr. In Support of the Appellant Brief of Plaintiff Gilda H. Davis.

Ordinary care was not used by the Biloxi Public School District and its employees in performance of their ministerial duty and their lack of policy. Biloxi Public School District did not adopt the GCNA Termination/Separation/Resignation/Reemployment - Classified Employees policy until June 14, 2005. Stewart Ex Rel. Womack v City of Jackson, 804 So.2d 1041, 1047 (¶12) (Miss.2002) and Leflore County v. Givens, 754 So.2d 1223, 1227 (¶9) (Miss.2000).

ARGUMENT/SUMMARY ARGUMENT

STATEMENT OF THE ISSUES of the tenured employee, Gilda H. Davis are all supported by Relevant Evidence as required by Rule 401 Relevant Evidence and supported by notarized affidavit of Gilda H. Davis and notarized affidavit of Joseph Davis, Jr., Filed/Stamped In the County Court of Harrison County Mississippi, on August 28, 2007.

I.

The Trial Court erred in dismissing the claims of Gilda H. Davis as barred under the applicable statute of limitation. Lawyer Edward F. Donovan assertions and opinions are incorrect on the 3 year Statue of Limitation ruling based upon fact and Relevant Evidence in employee, Gilda H. Davis', Appellant's Brief (the time from the filing of the Complaint May 25, 2007 to the time of employee, Gilda H. Davis, termination by the Biloxi Public School District May 31, 2007 is 359 days, this is 6 days less than the 3 years filing requirement. "Under Mississippi law, cause of action does not accrue until injury occurs. Matter of Wheeler C. A. 5 (Miss.) 1998 137 F. 3d 299."

I, Gilda H. Davis, employee, fully vested and tenured in the Biloxi Public School District was injured on the job at Beauvoir Elementary School, Biloxi Public School District on May 26, 2004, Refer to, EXHIBIT- D, (See Record Excerpts), Family Practice Clinic, Keesler Air Force Base Mississippi.

QUOTE: SCHOOL/WORK ABSENCE EXCUSE (INJURED ON THE JOB ON MAY 26, 2004, WAS TAKEN FROM BEAUVOIR ELEMENTARY SCHOOL TO THE HOSPITAL AT KEESLER AFB, MISSISSIPPI LOCATED IN BILOXI, MISSISSIPPI, ON MAY 26, 2004. Employee, Gilda H. Davis did file the Accident Report, with the Biloxi Public School District , through the principal, Susan Brand and through the Payroll and Insurance Department, Ms. Seymour.

I, Gilda H. Davis, tenured employee, of Beauvoir Elementary School, Biloxi Public School District was terminated on May 31, 2004. REPEAT MAY 31, 2004.

PLEASE REFER TO State and School Employees' Health Insurance Plan (See Appellants' Record Excerpts, EXHIBIT H.

The Appellants Filed the Complaint on May 25, 2007, it was not put into the computer by the clerk until May 30, 2007, Please Refer to the Appellants Brief, Filed Stamped, October 12, 2009, page 12, Complaint, Respectfully Submitted, May 25, 2007 and given to Ms Lisa Boudreaux, Clerk of County Clerk, Harrison County Second Judicial District, Mississippi, Biloxi , Mississippi, on that day, Friday May 25, 2007, (May 28, 2007,Monday, was Memorial Day a Holiday) Ms. Lisa Boudreaux, stamped it on May 30, 2007.

II.

I, GILDA H. DAVIS, EMPLOYEE AT BEAUVOIR ELEMENTARY SCHOOL IN THE BILOXI PUBLIC SCHOOL DISTRICT WAS NOT TERMINATED UNTIL MAY 31, 2004. In Accordance with Mississippi code ann. §15-1-49, Mississippi three year provided by the Mississippi Statue, this Limitations period starts to run when plaintiff becomes aware or has sufficient information to know that he or she suffered an injury. Cuvillier v. Taylor ©. A. 5 (Miss.) 2007 503 F.3d 397.

III.

Therefore, the court erred in that the claims are not barred under the applicable statue of limitation, the Record shows that the time is 359 days (three hundred and fifty-nine days (less than the 3 year statue of limitation) this is a proven fact that the Relevant Evidence and the Genuine Issues of Material Fact of the Appellants submitted by Notarized Exhibits A thru J, supports the case in Fact and Law.

IV.

The following cited referenced Federal and State cases appropriately supports the Plaintiff, Gilda H. Davis, case in substantiated case settled Law.

“The appropriate statue of limitations for employee’s claim of wrongful termination of his/her employment which was pursuant to written contract was the three-year catch-all statue of limitations under Mississippi, not the one-year period for claims based on oral contract or the one year period for actions for failure to employ. Robinson v. Coastal Family Health Center , Inc. (S.D. Miss. 1990) 756 F. Supp. 958.”

“In choosing actions applicable state statute of limitations to apply to action brought under civil rights statute, court must ground its decision on the basis of which statute will best effectuate the congressional policies underlying the civil rights statute. Shaw v. McCorkel C. A.5 (Miss) 1976) 537 F. 2d 1289.”

“In Mississippi cause of action begins to run from the time of the injury and not from the time of its discovery. Wilson v. Retail CreditCo. (S. D. Miss. 1971) 325 F. Supp. 460, affirmed 457 F. 2d 1406.”

“Under Mississippi law discovery rule, the would be plaintiff need not know each precision each detail of breach, causation, and damages, but merely enough to make a plain statement of the case backed by evidence sufficient to survive a summary judgment motion. First Trust Nat. Ass’n v First Nat. Bank of Commerce C. A. 5 (Miss.) 2000) 220 F. 3d 331.”

“General six-year statute of limitations in Mississippi was applicable to suit by laid off employee against employer and union claiming racial discrimination. Heath v. D. H. Baldwin Co. (N. D. Miss. 1977) 477 F. Supp. 495.”

“Cause of action accrues, for statute of limitations purposes, when plaintiff becomes aware he/she has suffered an injury or has sufficient information to know that he/she has been injured. A-1 By D-2 v. Molpus(S. D. Miss. 1995) 906 F. Supp. 275.”

Again, “Under Mississippi Law, cause of action does not accrue until injury occurs. Matter of Wheeler C. A. 5 (Miss) 1998 137 F. 3d 299.”

I, Employee Gilda H. Davis was injured on May 26, 2004 and was terminated on May 31, 2004.

“Negligent misrepresentation and negligent infliction of emotional distress are governed by the “catch-all” three-year statute of limitations. Air Comfort Systems, Inc. V. Honeywell, Inc., 2000, 760 So. 2d 43.”

“Where Disability benefits were payable under combination life, health, and accident policy at the end of each year, a cause of action accrued for each installment when it became due and not before, as respects six-year statute of limitations, and hence only installments which became due more than six years before the commencement of action were barred. Code 1930 § 2292, Columbian Mut. Life Ins. Co. V. Craft (Miss. 1938) 186 Miss. 234, 185 So. 255.”

“Six-year statute of limitation held applicable to claim of county clerk for balance of salary alleged to be due him (Hemingway’s Code 1927, § 2635). Desoto County v. Wood (Miss 1928) 150 Miss, 432, 116 So. 738.”

“When the last day of six-year statute of Limitations for filing personal injury action falls on Sunday, action filed on next day, Monday, is timely, Nelson v. James (Miss. 1983) 435 So. 2d 1199.”

“Evidence in legal malpractice action raised genuine issue of material fact as to when plaintiff learned or through exercise of reasonable diligence should have learned of negligence of lawyer, precluding judgment on statute of limitations ground. Smith v. Sneed (Miss. 1994) 638 So. 2d 1252.”

“Tort actions arising from contractual obligations should be controlled by and subject to six-year statute of limitations for torts. Trammell v. State (Miss. 1993) 622 So. 2d 1257.”

“The filing of Declaration on November 14, 1936, with request to circuit clerk to issue summons at once in action on note which was due November 15, 1930, constituted the beginning of a suit which stopped running of six (6) year statute of limitations, notwithstanding clerk delayed issuance of summons until November 18, 1936, and summons was not served until December 3, 1936, Code 1930, §§ 520, 2292, Wood v. Peerey (Miss. 1937) 179 Miss. 727, 176 So. 721.”

“Under law of Mississippi, general six-year period of limitations rather than three-year period of limitations which applies to action founded on implied contracts and actions to recover back pay governs employment discrimination suit charging violation of federal statute guaranteeing equal rights under law. Walton v. Utility Products, Inc. (N.D. Miss. 1976) 424 F. Supp. 1145.”

“Six-year residual statute of limitations for personal injury claims apply to civil rights claim brought under § 1983, rather than three-year statute applicable to such claims under 1990 amendment, where claim arose prior to amendment, Bankston v. Pass Road Tire Center, Inc. (Miss. 1992) 611 So.2d 998.”

“Under Mississippi law, in order to recover damages for fraudulent concealment, plaintiff need only show that defendant took some affirmative action intended to prevent, and that did prevent, discovery of facts giving rise to fraud claim. Peters v. Metropolitan Life Ins. Co. (S.D.Miss. 2001) 164 F.Supp.2d 830.”

“Action against bail bondsmen and their surety for false imprisonment and malicious prosecution, though grounded in tort, essentially sprang from underlying bond agreement between bail bondsmen and plaintiff; hence, Mississippi limitations period applicable was six-year period under catchall provision rather than one-year period applicable to the actions. Mathis v. Indemnity Ins. Co. Of North America (S.D.Miss. 1983) 588 F.Supp. 489.”

CONCLUSION/REQUEST FOR RELIEF

The Plaintiff, Gilda H. Davis, has incurred injury and damages as an employee in the employment of the Biloxi Public School District and without ordinary care by the employers of the Biloxi Public School District the Plaintiff Gilda H. Davis being the most Senior employee was non-renewed for No Just Cause in violation of the Fair Labor Standards, Mississippi Department Employment Security Law, Public Employees' Retirement and Disability Benefits and Social Security Benefits. Wherefore Premises Considered, base upon the actions of the Defendants the Plaintiffs Gilda H. Davis and Joseph Davis, Jr., prays for Judgment against the Defendants jointly and severally in the sum of \$25,000 (and back wages), and the sum of an undetermined amount in punitive damages (to be determined by the Court for the principle and intent of the matter to prevent the reoccurrence of this injustice to other employees in the employ of the utmost profession of teaching in the Biloxi Public School District, under the theory of State law of gross negligence, wilful disregard for rights of Plaintiff, and an undetermined amount under 42 U.S.C.A. Section 1983, for wilful violation of Plaintiff's Civil Rights and Constitutional Rights, all costs, pre-judgement interest, and attorney fees under the Lodestar Rule. The Plaintiff/Appellant prays that the case be Reversed and Remanded to the lower court for a decision that is consistent with the Relevant Evidence and the Facts and The Law.

Respectfully Submitted, This the 12th Day of November 2010.


Gilda H. Davis, Plaintiff


Gilda H. Davis, Plaintiff, Pro Se

346 Franks Drive

Biloxi, Mississippi 39531

(228)388-6985

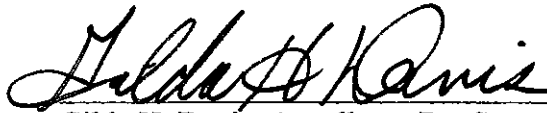

Joseph Davis, Jr., Plaintiff, Pro Se

AFFIDAVIT

STATE OF MISSISSIPPI

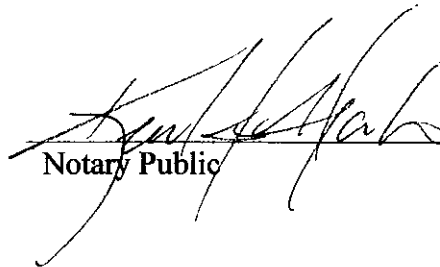
COUNTY OF HARRISON

Personally appeared before me, the undersigned authority in and for the above-mentioned state and county the within named, Gilda H. Davis, Plaintiff/Appellant, who, being by me first duly sworn, states on oath that she has executed the above and foregoing Appellants'/Plaintiff's, Appellants' Brief, Gilda H. Davis and Joseph Davis, Jr., v. Biloxi Public School District, et al. Supreme Court of Mississippi, Court of Appeals to the State of Mississippi, Case Number: 2010-CA-00338 and the information is true and correct to the best of her knowledge and belief.



Gilda H. Davis, Appellant, Pro Se

GIVEN UNDER MY HAND AND OFFICIAL SEAL, this the 8th Day of November 2010.



Notary Public

My Commission Expires:

21 OCT 2015



CERTIFICATE OF SERVICE

I, Gilda H. Davis/Joseph Davis, Jr., Plaintiff, Pro Se, do hereby certify that we have this day caused to be mailed, United States postage prepaid, a true and correct copy of the above and foregoing Plaintiff's Gilda H. Davis , Appellant's Brief, with Notarized/Affidavit and Record Excerpts to:

**Edward F. Donovan, Lawyer
786 Vieux Marche'
Post Office Box 87
Biloxi, Mississippi 39533**

**Silas W. McCharen, Lawyer
Daniel, Coker, Horton & Bell
4400 Old Canton Road, Suite 400
Post Office Box 1084
Jackson, Mississippi 39215**

**Shirley Valdez
Circuit Court Administrator/For Court Reporter
Post Office Box 1461
Gulfport, Mississippi 39502**

**Judge Gaston H. Hewes, Jr., Harrison County Judge
P. O. Box 973
Gulfport, Mississippi 39502**


**Judge Lisa P. Dodson, Circuit Court Judge Harrison County
P. O. Box 1461
Gulfport, Mississippi 39502**

**Kathy Gillis, Supreme Court Clerk
P. O. Box 249 450 High Street
Jackson, Mississippi 39205**

This the 12th Day of November 2010.


Gilda H. Davis, Appellant/Plaintiff, Pro Se


Joseph Davis, Jr., Appellant/ Plaintiff, Pro Se


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

APPENDUM

**THIS STATEMENT IS BEING SUBMITTED IN LIEU OF
APPELLANT JOSEPH DAVIS, JR. APPELLANTS REPLY BRIEF**

There is no reason to submit a Brief for Appellant Joseph Davis, Jr., Prose, Since, as noted by County Court Judge Gaston H. Hewes, Jr., in the Appeal Record TAB 8, Transcript of Hearing July 3, 2008 – GILDA H. DAVIS AND JOSEPH DAVIS, JR., VS. BILOXI PUBLIC SCHOOL DISTRICT, ET AL. CAUSE NUMBER D2402-07-0342 – PAGES 39-84. On page 49 Quote: Line 17-19

Start Quote: Line 17-19

“Line 17 THE COURT: There’s, and I’m going to let Mr. Davis speak to this, but there’s”

“Line 18 really only about one sentence of that Complaint that I understand that applies to Mr.”

“Line 19 Davis.”

End Quote: Line 17 - 19

The ONLY ITEM that has emphasis is the Affidavit of Joseph Davis, Jr. TAB 5 – PAGE 24-28, of Appellant Gilda H. Davis, Appellants’ Brief , Filed/Stamped, Oct 12, 2009. This is concerning the intimidation that was put upon the Davis Family – Especially our granddaughter, The Affidavit speaks for itself.


**A COPY OF THE AFFIDAVIT JOSEPH DAVIS, JR., IS ON FILE IN THE
RECORD EXCERPTS OF THE APPELLANT, IN THE ADDENDUM -
EVIDENTIARY SUPPORT (GENUINE ISSUES OF MATERIAL FACT) -
EXHIBIT - B.**

AFFIDAVIT

STATE OF MISSISSIPPI

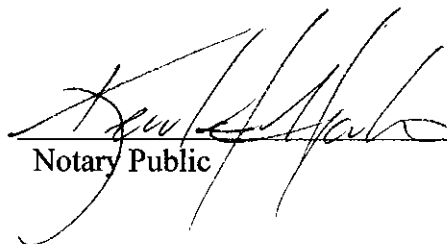
COUNTY OF HARRISON

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 Statement in Lieu of Appellants'/Plaintiff's, Appellants' Brief, In the Case, Gilda H. Davis and Joseph Davis, Jr., v. Biloxi Public School District, et al. Supreme Court of Mississippi, Court of Appeals to the State of Mississippi, Case Number: 2010-CA-00338 and the information is true and correct to the best of his knowledge and belief.



Joseph Davis, Jr., Appellant, Pro Se

GIVEN UNDER MY HAND AND OFFICIAL SEAL, this the 8th Day of November 2010.



Notary Public

My Commission Expires:

21 OCT 2015

