IN THE SUPREME COURT OF MISSISSIPPI

CAROLYN K. MCNEEL APPELLANT

VS. CIVIL ACTION NO.: 2010-CC-01399

MISSISSIPPI DEPARTMENT
OF HUMANS SERVICES APPELLEE

APPEAL FROM THE CIRCUIT COURT OF
WINSTON COUNTY, MISSISSIPPI

REPLY BRIEF OF THE APPELLANT

DAVID E. BANE, JR.
Attorney for Appellant
MSB [redacted]
Post Office Box 833
130 South Court Avenue
Louisville, MS 39339
Telephone No.:662-773-5775
Facsimile No.: 662-779-0984
Email:davidebanejr@yahoo.com

TABLE OF CONTENTS

ARGUMENT

II. THE MISSISSIPPI EMPLOYEE APPEALS BOARD SHOULD HAVE SPECIFIED THE DATE WHEN INTEREST SHOULD BEGIN ACCRUING.

We have stated in our brief that interest should begin accruing as of October 20, 2000 in the form of post judgment interest. The Mississippi Department of Human Services stated in its brief that interest should being accruing when the Hearing Officer issued an opinion that ordered the MDHS to pay 8% interest on the lump sum of McNeel's back pay. That opinion was not issued until December 1, 2009. Of course it would be fundamentally unfair for interest to begin accruing as of December 1, 2009 when McNeel was wrongfully terminated on November 10, 1999. This Court should clarify this matter and make it clear that interest began accruing on October 20, 2000, the date the Hearing Officer determined that McNeel's employment was wrongfully terminated.

III. THE MISSISSIPPI EMPLOYEE APPEALS BOARD SHOULD HAVE HAD AN INDEPENDENT ACCOUNTING FIRM OR THE MISSISSIPPI STATE AUDITOR'S OFFICE TO CALCULATE ALL MONIES OWED TO CAROLYN K. MCNEEL.

An independent, competent, and reputable accounting firm or the Mississippi State Auditor's Office is needed to properly calculate the monies owed to McNeel. An independent, competent, and reputable accounting firm or the Mississippi State Auditor's Office would not make fundamental errors. E.g., an independent, reputable, and competent accounting firm or the Mississippi State Auditor's office would understand that interest calculations take into consideration the amount of time in which interest has been accruing as opposed to solely the rate of interest. See for example, the sample amortization schedule included in this reply brief. Furthermore, an independent, competent, and reputable accounting firm or the Mississippi State Auditor's office would know that as a state employee, McNeel receives her medical insurance benefits before tax and not after tax. Finally, an independent, competent, and reputable accounting firm or the Mississippi State Auditor's office would know that payroll taxes should not be deducted on interest awards. Many more examples could be cited as to why an independent accounting firm or the Mississippi State Auditor's office should be utilized to calculate the monies owed to McNeel.

Respectfully submitted, this the 29th day of March, 2011.

David E. Bane Jr.

DAVID E. BANE, JR.
Attorney for Carolyn K. McNeel

DAVID E. BANE, JR.
ATTORNEY AT LAW
MSB#[redacted]
130 SOUTH COURT AVENUE
P.O. BOX 833
LOUISVILLE, MS 39339
TELEPHONE NO.: 662-773-5775
FACSIMILE NO.: 662-779-0984

Date: 12/17/2010

Payment per Period $ 1,477.00
Installment Period Twice monthly
Start of the Period 10/20/2000

Line Num	Start Date	Inst. Date	Installment	Rate	Days	Total Interest	Total
1	10/20/2000	10/20/2000	$30,000.00	8.0000 %	0	$0.00	$ 30,000.00
2	10/20/2000	10/31/2000	$1,477.00	8.0000 %	11	$72.13	$ 31,549.13
3	10/31/2000	11/1/2000	$1,477.00	8.0000 %	1	$6.88	$ 33,033.01
4	11/1/2000	11/15/2000	$1,477.00	8.0000 %	14	$100.84	$ 34,610.85
5	11/15/2000	12/1/2000	$1,477.00	8.0000 %	16	$120.41	$ 36,208.26
6	12/1/2000	12/15/2000	$1,477.00	8.0000 %	14	$109.88	$ 37,795.14
7	12/15/2000	1/1/2001	$1,477.00	8.0000 %	17	$138.92	$ 39,411.06
8	1/1/2001	1/15/2001	$1,477.00	8.0000 %	14	$119.25	$ 41,007.31
9	1/15/2001	2/1/2001	$1,477.00	8.0000 %	17	$150.30	$ 42,634.61
10	2/1/2001	2/15/2001	$1,477.00	8.0000 %	14	$128.31	$ 44,239.92
11	2/15/2001	3/1/2001	$1,477.00	8.0000 %	14	$132.84	$ 45,849.76
12	3/1/2001	3/15/2001	$1,477.00	8.0000 %	14	$137.38	$ 47,464.14
13	3/15/2001	4/1/2001	$1,477.00	8.0000 %	17	$172.32	$ 49,113.46
14	4/1/2001	4/15/2001	$1,477.00	8.0000 %	14	$146.44	$ 50,736.90
15	4/15/2001	5/1/2001	$1,477.00	8.0000 %	16	$172.54	$ 52,386.44
16	5/1/2001	5/15/2001	$1,477.00	8.0000 %	14	$155.51	$ 54,018.95
17	5/15/2001	6/1/2001	$1,477.00	8.0000 %	17	$194.33	$ 55,690.28
18	6/1/2001	6/15/2001	$1,477.00	8.0000 %	14	$164.57	$ 57,331.85
19	6/15/2001	7/1/2001	$1,477.00	8.0000 %	16	$193.26	$ 59,002.11
20	7/1/2001	7/15/2001	$1,477.00	8.0000 %	14	$173.63	$ 60,652.74
21	7/15/2001	8/1/2001	$1,477.00	8.0000 %	17	$216.34	$ 62,346.08
22	8/1/2001	8/15/2001	$1,477.00	8.0000 %	14	$182.70	$ 64,005.78
23	8/15/2001	9/1/2001	$1,477.00	8.0000 %	17	$227.35	$ 65,710.13
24	9/1/2001	9/15/2001	$1,477.00	8.0000 %	14	$191.76	$ 67,378.89
25	9/15/2001	10/1/2001	$1,477.00	8.0000 %	16	$224.34	$ 69,080.23
26	10/1/2001	10/15/2001	$1,477.00	8.0000 %	14	$200.83	$ 70,758.06
27	10/15/2001	11/1/2001	$1,477.00	8.0000 %	17	$249.36	$ 72,484.42
28	11/1/2001	11/15/2001	$1,477.00	8.0000 %	14	$209.89	$ 74,171.31
29	11/15/2001	12/1/2001	$1,477.00	8.0000 %	16	$245.06	$ 75,893.37
30	12/1/2001	12/15/2001	$1,477.00	8.0000 %	14	$218.96	$ 77,589.33
31	12/15/2001	1/1/2002	$1,477.00	8.0000 %	17	$271.38	$ 79,337.71
32	1/1/2002	1/15/2002	$1,477.00	8.0000 %	14	$228.02	$ 81,042.73
33	1/15/2002	2/1/2002	$1,477.00	8.0000 %	17	$282.38	$ 82,802.11
34	2/1/2002	2/15/2002	$1,477.00	8.0000 %	14	$237.08	$ 84,516.19
35	2/15/2002	3/1/2002	$1,477.00	8.0000 %	14	$241.62	$ 86,234.81
36	3/1/2002	3/15/2002	$1,477.00	8.0000 %	14	$246.15	$ 87,957.96
37	3/15/2002	4/1/2002	$1,477.00	8.0000 %	17	$304.40	$ 89,739.36

Line Num.	Start Date	Inst. Date	Installment	Rate	Days	Total Interest	Total
38	4/1/2002	4/15/2002	$1,477.00	8.0000 %	14	$255.21	$ 91,471.57
39	4/15/2002	5/1/2002	$1,477.00	8.0000 %	16	$296.85	$ 93,245.42
40	5/1/2002	5/15/2002	$1,477.00	8.0000 %	14	$264.28	$ 94,986.70
41	5/15/2002	6/1/2002	$1,477.00	8.0000 %	17	$326.41	$ 96,790.11
42	6/1/2002	6/15/2002	$1,477.00	8.0000 %	14	$273.34	$ 98,540.45
43	6/15/2002	7/1/2002	$1,477.00	8.0000 %	16	$317.57	$ 100,335.02
44	7/1/2002	7/15/2002	$1,477.00	8.0000 %	14	$282.41	$ 102,094.43
45	7/15/2002	8/1/2002	$1,477.00	8.0000 %	17	$348.42	$ 103,919.85
46	8/1/2002	8/15/2002	$1,477.00	8.0000 %	14	$291.47	$ 105,688.32
47	8/15/2002	9/1/2002	$1,477.00	8.0000 %	17	$359.43	$ 107,524.75
48	9/1/2002	9/15/2002	$1,477.00	8.0000 %	14	$300.53	$ 109,302.28
49	9/15/2002	10/1/2002	$1,477.00	8.0000 %	16	$348.65	$ 111,127.93
50	10/1/2002	10/15/2002	$1,477.00	8.0000 %	14	$309.60	$ 112,914.53
51	10/15/2002	11/1/2002	$1,477.00	8.0000 %	17	$381.44	$ 114,772.97
52	11/1/2002	11/15/2002	$1,477.00	8.0000 %	14	$318.66	$ 116,568.63
53	11/15/2002	12/1/2002	$1,477.00	8.0000 %	16	$369.37	$ 118,415.00
54	12/1/2002	12/15/2002	$1,477.00	8.0000 %	14	$327.73	$ 120,219.73
55	12/15/2002	1/1/2003	$1,477.00	8.0000 %	17	$403.46	$ 122,100.19
56	1/1/2003	1/15/2003	$1,477.00	8.0000 %	14	$336.79	$ 123,913.98
57	1/15/2003	2/1/2003	$1,477.00	8.0000 %	17	$414.46	$ 125,805.44
58	2/1/2003	2/15/2003	$1,477.00	8.0000 %	14	$345.86	$ 127,628.30
59	2/15/2003	3/1/2003	$1,477.00	8.0000 %	14	$350.39	$ 129,455.69
60	3/1/2003	3/15/2003	$1,477.00	8.0000 %	14	$354.92	$ 131,287.61
61	3/15/2003	4/1/2003	$1,477.00	8.0000 %	17	$436.48	$ 133,201.09
62	4/1/2003	4/15/2003	$1,477.00	8.0000 %	14	$363.98	$ 135,042.07
63	4/15/2003	5/1/2003	$1,477.00	8.0000 %	16	$421.16	$ 136,940.23
64	5/1/2003	5/15/2003	$1,477.00	8.0000 %	14	$373.05	$ 138,790.28
65	5/15/2003	6/1/2003	$1,477.00	8.0000 %	17	$458.49	$ 140,725.77
66	6/1/2003	6/15/2003	$1,477.00	8.0000 %	14	$382.11	$ 142,584.88
67	6/15/2003	7/1/2003	$1,477.00	8.0000 %	16	$441.88	$ 144,503.76
68	7/1/2003	7/15/2003	$1,477.00	8.0000 %	14	$391.18	$ 146,371.94
69	7/15/2003	8/1/2003	$1,477.00	8.0000 %	17	$480.50	$ 148,329.44
70	8/1/2003	8/15/2003	$1,477.00	8.0000 %	14	$400.24	$ 150,206.68
71	8/15/2003	9/1/2003	$1,477.00	8.0000 %	17	$491.51	$ 152,175.19
72	9/1/2003	9/15/2003	$1,477.00	8.0000 %	14	$409.31	$ 154,061.50
73	9/15/2003	10/1/2003	$1,477.00	8.0000 %	16	$472.96	$ 156,011.46
74	10/1/2003	10/15/2003	$1,477.00	8.0000 %	14	$418.37	$ 157,906.83
75	10/15/2003	11/1/2003	$1,477.00	8.0000 %	17	$513.52	$ 159,897.35
76	11/1/2003	11/15/2003	$1,477.00	8.0000 %	14	$427.43	$ 161,801.78
77	11/15/2003	12/1/2003	$1,477.00	8.0000 %	16	$493.68	$ 163,772.46
78	12/1/2003	12/15/2003	$1,477.00	8.0000 %	14	$436.50	$ 165,685.96

Line Num	Start Date	Inst. Date	Installment	Rate	Days	Total Interest	Total
79	12/15/2003	1/1/2004	$1,477.00	8.0000 %	17	$535.54	$ 167,698.50
80	1/1/2004	1/15/2004	$1,477.00	8.0000 %	14	$444.35	$ 169,619.85
81	1/15/2004	2/1/2004	$1,477.00	8.0000 %	17	$545.05	$ 171,641.90
82	2/1/2004	2/15/2004	$1,477.00	8.0000 %	14	$453.39	$ 173,572.29
83	2/15/2004	3/1/2004	$1,477.00	8.0000 %	15	$490.61	$ 175,539.90
84	3/1/2004	3/15/2004	$1,477.00	8.0000 %	14	$462.43	$ 177,479.33
85	3/15/2004	4/1/2004	$1,477.00	8.0000 %	17	$567.00	$ 179,523.33
86	4/1/2004	4/15/2004	$1,477.00	8.0000 %	14	$471.46	$ 181,471.79
87	4/15/2004	5/1/2004	$1,477.00	8.0000 %	16	$543.98	$ 183,492.77
88	5/1/2004	5/15/2004	$1,477.00	8.0000 %	14	$480.50	$ 185,450.27
89	5/15/2004	5/31/2004	$0.00	8.0000 %	16	$554.31	$ 186,004.58

Days	1319
Total Interest	$ 27,505.58
Total Installment	$ 158,499.00
Total	$ 186,004.58
Daily Interest starting 31 May 2004	$ 34.64
Accrual by Installment	Simple Interest
Day count	Actual/Actual

CERTIFICATE OF SERVICE

I, David E. Bane, Jr., attorney for Carolyn K. McNeel, do hereby certify that I have this day mailed, by first class United States Mail, postage prepaid, a true and correct copy of the above and foregoing Reply Brief of the Appellant to the following:

Honorable Katherine Caldwell
Special Assistant Attorney General
P.O. Box 220
Jackson, MS 39205-0220

Honorable Joseph H. Loper, Jr.
Circuit Court Judge
P.O. Box 616
Ackerman, MS 39735

This the 29th day of March, 2011.

David E. Bane, Jr.

Certificate of Filing

I, David E. Bane, Jr., attorney for appellant, Carolyn K. McNeel, do hereby certify that on the 29th day of March, 2011, I have sent by overnight delivery via U.P.S., the original and four copies of the Reply Brief for Appellant concerning the case of Carolyn K. McNeel, Appellant v. Mississippi Department of Human Services, Appellee, No.2010-CC-01399, in the Supreme Court of the State of Mississippi, to Kathy Gillis, Clerk for the Supreme Court and Court of Appeals, at the address of Gartin Justice Building, 450 High Street, Jackson, Mississippi 39201.

So certified on this the 29th day of March, 2011.

David E. Bane, Jr.