

CASE NO: - COUNTY COURT CASE DOCKET  
97- 1335 FILED: 3/10/97 CASE TYPE: COMPLAINT  
STYLE: HILBURN L BRELAND  
VS MCPHAIL JOE K

CCR001B

LINE: \_\_\_\_

LINE	DATE	EVENT	DESCRIPTION	BOOK PAGE
1	3 10 97	PAYMENT WITHOUT CLER	NEW CASE	
2	3 10 97	SUMMONS ISSUED		
3	4 04 97	ANSWER	DEFTS RESPONSIVE PLEADINGS	
4	6 04 97	MOTION	FOR SUMMARY JUDGMENT	
5	6 06 97	NOTICE	OF MOTION	
6	6 13 97	ORDER	JUDGMENT 6600.00	359-477
7	2 18 98	SUGG GSH	DGNB	
		00	25.00 CK	15.00
8	2 25 98	WRIT	EX 2-23-98 PN AGENT FOR	
		00	DEPOSIT GUARANTY NATIONAL BANK	.00
9	4 01 98	AUTHORITY	TO CANCEL	
		00	L BRELAND HILBURN CANCELLED	
10	4 01 98	CASE CLOSED		
11	4 08 98	ORDER	AGREED DISMISSAL W PREJ	375-315
		00		
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END OF INQUIRY - F5 TO SCROLL BACK - F1 FOR MENU

IN THE COUNTY COURT OF THE FIRST JUDICIAL DISTRICT  
OF HINDS COUNTY, MISSISSIPPI

L. BRELAND HILBURN

VS.

JOE K. MCPHAIL

**FILED**  
MAR 10 1997

PLAINTIFF

NO. 97-1335

DEFENDANT

BARBARA DUNN  
COMPLAINT CLERK  
D.C.

COMES NOW L. Breland Hilburn the Plaintiff and brings suit against the Defendant and says.

I.

That the Defendant is an adult resident citizen of Hinds County who may be served with process at his business address of 5650 I-55 South, Jackson, Mississippi (Byram).

II.

That on the 7th day of May, 1994, the Defendant executed a Promissory Note to the Plaintiff which is attached hereto as Exhibit "A" and incorporated herein for all purposes.

III.

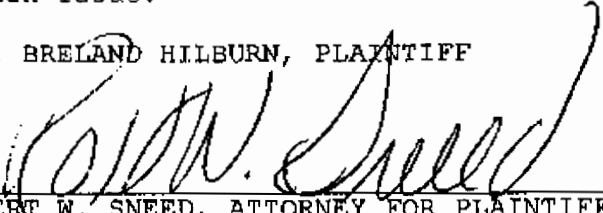
That under the terms of the Note the Note is now in default in the amount of \$6,000.00 (Six Thousand Dollars).

IV.

That the Plaintiff is entitled to interest and attorney fees as allowed by the terms of the Note.

Therefore the Plaintiff prays for Judgement against the Defendant in the amount of \$6,000.00 plus interest, attorney fees and costs to which let execution issue.

L. BRELAND HILBURN, PLAINTIFF

BY:   
ROBERT W. SNEED, ATTORNEY FOR PLAINTIFF

Robert W. Sneed  
Post Office Box 2251  
Jackson, Mississippi 39225-2251  
354-0044 MSB# 7663

PROMISSORY NOTE

Jackson, Mississippi  
May \_\_\_\_\_ 1994

FOR VALUE RECEIVED, the undersigned promise to pay without grace, to the order of L. BRELAND HILBURN the sum of One thousand and no/100 Dollars (\$1,000.00), for a period of 36 months with interest thereon from date at the rate of zero percent (0%), with the first monthly installment being due and payable on July 1, 1994, and a like sum each and every month thereafter until paid in full.

All installments of principal and all interest are payable in lawful money of the United States of America, at \_\_\_\_\_, or at such other place as the holder hereof may designate in writing.

Each make and endorser waives the right of exemption under the Constitution and laws of Mississippi and each maker and endorser waives demand, protest and notice of protest, and all requirements necessary to hold them liable as makers and endorsers.

It is further agreed that the undersigned shall pay all costs of collection, including an attorney's fee of ten (10) percent on any amount due or declared to be due, and placed with an attorney for collection, on failure to pay any installment of this note or any interest at maturity. All installments of principal of this note and/or all interest shall bear interest after maturity at the rate of eight (8) percent per annum payable monthly until paid.

This note is to be construed according to the laws of Mississippi, where it is executed, and is secured by a trust deed on real estate, executed by JOE K. MCPHAIL.

Upon failure to pay any installment of principal or any interest of this note when due, or if any of the conditions and requirements of said note are not complied with, this note, at the option of the holder, shall become due and payable.

EXHIBIT A

  
JOE K. MCPHAIL

**COVER SHEET  
Civil Case Filing Form**

(To be Completed by Attorney/Party  
Prior to Filing of Pleading)

Mississippi Supreme Court  
Administrative Office of Courts

Form AOC-01  
(Revised 1/94)

*(Shaded Area to be Completed by Clerk)*

**Court Identification**  
 County  File  Court (C/C/H/O)  
 Month  Day  Year

**Case Number**  
 Year  Number  (If Applicable)

**Case # If Opened prior to 3/1/94**

IN THE COUNTY COURT OF HINDS COUNTY  
 STYLE OF CASE: Hillburn vs. McHAIL  
 Number of Parties: PLAINTIFF(S):  DEFENDANT(S):

NATURE OF SUIT: In the left-hand column of boxes preceding the categories listed below, check the box (check only one) that best describes or categorizes the primary basis or theory of your suit. In the right-hand column, check all secondary categories applicable to the suit.

<p><b>1 TORTS</b></p> <p><b>PERSONAL INJURY</b></p> <p>A <input type="checkbox"/> Bad Faith          B <input type="checkbox"/> Fraud          C <input type="checkbox"/> Malpractice - Legal          D <input type="checkbox"/> Malpractice - Medical          E <input type="checkbox"/> Malpractice - Other          F <input type="checkbox"/> Products Liability          G <input type="checkbox"/> Negligence (General)          H <input type="checkbox"/> Negligence - Motor Vehicle          J <input type="checkbox"/> Wrongful Death          K <input type="checkbox"/> Other _____</p> <p><b>PROPERTY INJURY</b></p> <p>L <input type="checkbox"/> Personality          M <input type="checkbox"/> Realty</p> <p><b>2 MASS TORT</b></p> <p>N <input type="checkbox"/> Asbestos          P <input type="checkbox"/> Chemical Spill</p>	<p>(MASS TORTS - Continued)</p> <p>R <input type="checkbox"/> Dioxin          S <input type="checkbox"/> Hearing Loss          T <input type="checkbox"/> Hand/Arm Vibration          U <input type="checkbox"/> Other _____</p> <p><b>3 CIVIL RIGHTS</b></p> <p>V <input type="checkbox"/> Prisoner          W <input type="checkbox"/> Elections          X <input type="checkbox"/> Habeas Corpus          Y <input type="checkbox"/> Post Conviction Relief          Z <input type="checkbox"/> Other _____</p> <p><b>4 CONTRACT</b></p> <p>A <input type="checkbox"/> Insurance          B <input type="checkbox"/> Contracts - Product Liability          C <input type="checkbox"/> Specific Performance          D <input type="checkbox"/> Breach of Contract          E <input type="checkbox"/> Other _____</p>	<p><b>5 BUSINESS/COMMERCIAL</b></p> <p>G <input checked="" type="checkbox"/> Debt Collection          H <input type="checkbox"/> Employment          J <input type="checkbox"/> Pension          K <input type="checkbox"/> Receivership          L <input type="checkbox"/> Accounting          M <input type="checkbox"/> Business Dissolution - Corporation          N <input type="checkbox"/> Business Dissolution - Partnership          P <input type="checkbox"/> Stockholder Suit          R <input type="checkbox"/> Garnishment          S <input type="checkbox"/> Execution          T <input type="checkbox"/> Foreign Judgment          U <input type="checkbox"/> Other _____</p> <p><b>6 STATUTES/RULES</b></p> <p>V <input type="checkbox"/> Federal Statutes          W <input type="checkbox"/> Declaratory Judgment          X <input type="checkbox"/> Extraordinary Writ          Y <input type="checkbox"/> Railroad/Seaman</p>	<p>(STATUTES/RULES - Continued)</p> <p>Z <input type="checkbox"/> Racketeering (RICO)          A <input type="checkbox"/> Eminent Domain          B <input type="checkbox"/> Injunction/TRO          C <input type="checkbox"/> Bond Validation          D <input type="checkbox"/> Municipal Annexation          E <input type="checkbox"/> Civil Forfeiture          F <input type="checkbox"/> ERISA          G <input type="checkbox"/> Other _____</p> <p><b>7 APPEALS</b></p> <p>H <input type="checkbox"/> Workers' Comp.          J <input type="checkbox"/> M.E.S.C.          K <input type="checkbox"/> Justice Court          L <input type="checkbox"/> Municipal Court          M <input type="checkbox"/> County Court          N <input type="checkbox"/> Administrative Agency          P <input type="checkbox"/> Other _____</p>
<p><b>8 DOMESTIC RELATIONS</b></p> <p>A <input type="checkbox"/> Divorce - Fault          B <input type="checkbox"/> Divorce - Irrec. Diff.          C <input type="checkbox"/> Separate Maintenance          D <input type="checkbox"/> Child Support          E <input type="checkbox"/> Child Custody/Visitation          F <input type="checkbox"/> Alimony          G <input type="checkbox"/> Property Division          H <input type="checkbox"/> Domestic Abuse          J <input type="checkbox"/> Termination of Parental Rights          K <input type="checkbox"/> Contempt</p>	<p>(DOMESTIC RELATIONS - Continued)</p> <p>L <input type="checkbox"/> Modification          M <input type="checkbox"/> URESA          N <input type="checkbox"/> Paternity          P <input type="checkbox"/> Other _____</p> <p><b>9 PROBATE</b></p> <p>R <input type="checkbox"/> Intestate Estate          S <input type="checkbox"/> Testate Estate          T <input type="checkbox"/> Will Contest          U <input type="checkbox"/> Muniment of Title          V <input type="checkbox"/> Removal of Minority</p>	<p>(PROBATE - Continued)</p> <p>W <input type="checkbox"/> Guardianship          X <input type="checkbox"/> Conservatorship          Y <input type="checkbox"/> Birth Certificate Correction          Z <input type="checkbox"/> Name Change          A <input type="checkbox"/> Adoption - Contested          B <input type="checkbox"/> Adoption - Uncontested          C <input type="checkbox"/> Minor's Settlement          D <input type="checkbox"/> Commitment          E <input type="checkbox"/> Heirship          F <input type="checkbox"/> Other _____</p>	<p><b>10 REAL PROPERTY</b></p> <p>G <input type="checkbox"/> Title, Boundary, Easement          H <input type="checkbox"/> Partion          J <input type="checkbox"/> Judicial Foreclosure          K <input type="checkbox"/> Eminent Domain          L <input type="checkbox"/> Lien Assertion          M <input type="checkbox"/> Adverse Possession          N <input type="checkbox"/> Tax Sale Conf./Canc.          P <input type="checkbox"/> Other _____</p>

ORIGIN (Check One)  Initial Filing  Reopened  Remanded  Appeal  Reinstated  Other \_\_\_\_\_

Signature of Attorney /Party Filing Form: [Signature] (Check if Not An Attorney)  (Bar Number If Attorney)  Date March 10 97

**DISPOSITION DATA (Shaded Area to be Completed by Clerk)**

<p><b>FINAL DISP. DATE</b></p> <p><input type="checkbox"/><input type="checkbox"/><input type="checkbox"/> (Month) <input type="checkbox"/><input type="checkbox"/> (Day) <input type="checkbox"/><input type="checkbox"/> (Year)</p>	<p><b>JURY TRIAL</b></p> <p><input type="checkbox"/> (If Applicable)</p>	<p><b>BENCH TRIAL</b></p> <p><input type="checkbox"/> (If Applicable)</p>	<p><b>TOTAL TRIAL DAYS</b></p> <p><input type="checkbox"/><input type="checkbox"/><input type="checkbox"/> (If Applicable)</p>	<p><b>JUDGE CODE</b></p> <p><input type="checkbox"/><input type="checkbox"/><input type="checkbox"/> (Bar Number)</p>
<p><b>METHOD OF DISPOSITION</b></p> <p>A <input type="checkbox"/> Dismissed          B <input type="checkbox"/> Dismissed, Lack of Prosecution          C <input type="checkbox"/> Default Judgment          D <input type="checkbox"/> Judgment by Stipulation          E <input type="checkbox"/> Final Judgment          F <input type="checkbox"/> Transferred          G <input type="checkbox"/> Change of Venue          H <input type="checkbox"/> Case Consolidation          K <input type="checkbox"/> Guardian/Cons. Closed          L <input type="checkbox"/> Fiduciary Appointed          M <input type="checkbox"/> Estate Closed          N <input type="checkbox"/> New Trial Granted          P <input type="checkbox"/> Removal to Fed. Court          R <input type="checkbox"/> Writ Issued          S <input type="checkbox"/> Protective Order          T <input type="checkbox"/> Summary Judgment          J <input type="checkbox"/> Other _____</p>				

WHITE: SEND TO AOC      YELLOW: DISPOSITION COPY - SEND TO AOC      PINK: FILE COPY - RETAIN IN FILE

IN THE COUNTY COURT OF THE EAST JUDICIAL DISTRICT OF  
HINDS COUNTY, MISSISSIPPI

L. BRELAND HILBURN

PLAINTIFF

VS

CIVIL ACTION NO. 251-97-1335 COV

JOE K. McPHAIL

DEFENDANT

**FILED**  
APR 4 1997  
BARBARA DUNN  
CIRCUIT CLERK  
D.C.

ORIGINAL

DEFENDANT'S  
RESPONSIVE PLEADINGS

ORIGINAL

COMES NOW the Defendant, JOE K. McPHAIL, (hereinafter referred to as  
("McPhail"), by and through counsel, and answers Plaintiff's complaint as follows, to-wit:

**FILED**  
APR 4 1997  
BARBARA DUNN  
CIRCUIT CLERK  
D.C.

1.

Admitted.

2.

Denied. Further, Defendant demands strict proof of the allegations made by Plaintiff  
in his paragraph II.

3.

Denied. Further, Defendant demands strict proof of the allegations made by Plaintiff  
in his paragraph III.

4.

Denied.

5.

As to the unnumbered paragraph beginning with the words "Therefore the Plaintiff  
prays ...", the Defendant denies that the Plaintiff is entitled to the relief prayed for, or for  
any other or further relief of or from this Defendant.

AFFIRMATIVE MATTERS

6.

The Plaintiff has failed to state a claim upon which relief can be granted.

7.

The copy of the promissory note used as Plaintiff's exhibit, and sued upon by Plaintiff, is not the promissory note which was tendered to Plaintiff at the consummation of the agreement between the parties which gave rise and occasion to any indebtedness. Plaintiff has substituted a different promissory note rather than the one which embodies the actual indebtedness eventually agreed upon in 1994.

8.

The promissory note sued upon differs from the actual terms of the agreement entered into by the parties in 1994 which gave rise to any indebtedness between the parties; said promissory note differs from the Deed of Trust by its terms reciting the principal amount of indebtedness, and since the Plaintiff constructed the documents, the discrepancy must be construed in favor of the Defendant.

9.

This Defendant has satisfied and paid the actual indebtedness owed to the Plaintiff by the terms agreed upon in 1994, and should, therefore, be discharged of any further claim of indebtedness.

10.

Plaintiff employed trickery, deceit and chicanery to obtain the signature of the Defendant upon a document which contained terms which differed from the terms previously, but essentially contemporaneously, agreed upon by the parties. Further, Plaintiff relied upon Defendant's trust and confidence in Plaintiff to place Defendant in an unfair position with which to obtain the signature of Defendant without Defendant's knowledge that the documents placed before him were not the embodiment of the agreed upon terms. Plaintiff and Defendant have otherwise conducted the business of the agreement under the

terms and conditions as proffered by Defendant.

11.

Plaintiff employed undue influence created by the close personal relationship which existed between the parties to obtain Defendant's signature upon a document which did not embody the terms and conditions of the agreement reached between the parties at the time. Plaintiff and Defendant have otherwise conducted the business of the agreement under the terms and conditions as proffered by Defendant.

WHEREFORE, PREMISES CONSIDERED, this Defendant prays for an order of this Court dismissing this action with costs assessed to the Plaintiff, and

further, this Defendant prays for any other or further relief, whether general or special, to which he may otherwise be entitled in the premises.

RESPECTFULLY SUBMITTED, this the 4th day of April, 1997.

JOE K. McPHAIL

BY: 

J. KEITH SHELTON, ESQUIRE  
ATTORNEY FOR THIS DEFENDANT

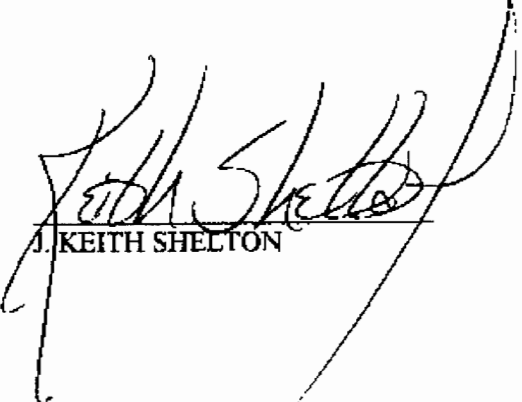
**CERTIFICATE OF SERVICE**

I, J. KEITH SHELTON, ESQUIRE, attorney for this Defendant, do hereby certify that I have, this day, mailed, by United States Mail, postage prepaid, a true and correct copy of the above and foregoing instrument to:

ROBERT W. SNEED  
PO BOX 2251

JACKSON, MISSISSIPPI 39225-2251

This the 4<sup>th</sup> day of April, 1997.

  
J. KEITH SHELTON

IN THE COUNTY COURT OF THE FIRST JUDICIAL DISTRICT  
OF HINDS COUNTY, MISSISSIPPI

L. BRELAND HILBURN

VS

JOE K MCPHAIL

**FILED**  
JUN 4 1997

BARBARA DUNN  
CIRCUIT CLERK

D.C.

PLAINTIFF

CAUSE NO. 97-1335

DEFENDANT

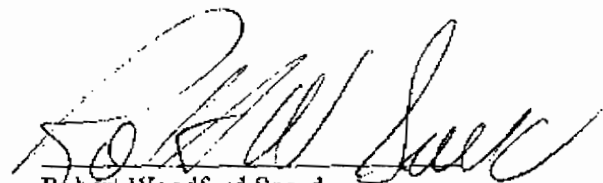
MOTION FOR SUMMARY JUDGMENT

Comes now the Plaintiff L. Breland Hilburn and moves the Court for summary judgment and would show cause as follows:

That the answer of the Defendant is insufficient at law and no triable issue of fact is presented to this Court.

THEREFORE, Plaintiff L. Breland Hilburn moves for summary judgment in the above captioned matter.

RESPECTFULLY SUBMITTED, this the <sup>th</sup> 4 day of <sup>June</sup> ~~July~~, 1997.



Robert Woodford Sneed  
Attorney for L. Breland Hilburn

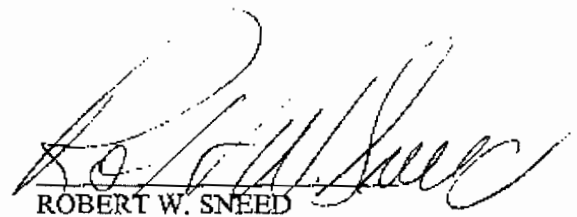
Robert Woodford Sneed  
MSB# 7663  
Post Office Box 2251  
Jackson, Mississippi 39225-2251  
(601) 354-0044

CERTIFICATE OF SERVICE

I, ROBERT W. SNEED, attorney for the Defendant, L. Breland Hilburn, do hereby certify that I have this day mailed via United States Postal Service, first-class, postage prepaid, a true and correct copy of the foregoing document to the Defendant's attorney at his last known mailing address:

J. Keith Shelton  
Post Office Box 22641  
Jackson, Mississippi 39225

SO CERTIFIED, this the 4<sup>th</sup> June day of ~~May~~, 1997.

  
ROBERT W. SNEED

ROBERT W. SNEED

ATTORNEY AT LAW

P.O. BOX 2251

JACKSON, MISSISSIPPI 39225-2251

503 SOUTH STATE STREET

TELEPHONE (601) 364-0044  
FAX (601) 969-5582

June 4, 1997

Honorable Barbara Dunn  
Hinds County Circuit Clerk  
P. O. Box 327  
Jackson, Mississippi 39205

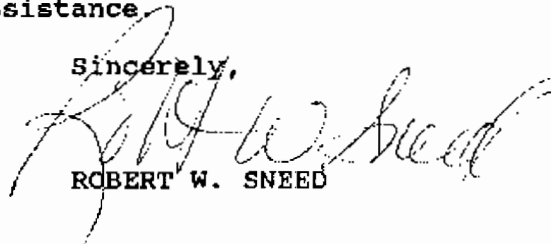
RE: L. Breland Hilburn v. Joe K. McPhail  
Hinds County Court Cause No. 97-1335

Dear Barbara:

Please find enclosed the original Notice of Motion which I would appreciate your filing in the above-referenced matter.

Thank you for your assistance

Sincerely,



ROBERT W. SNEED

RWS/dy

Enclosure

cc: Honorable William R. Barnett  
J. Keith Shelton, Esquire

IN THE COUNTY COURT OF THE FIRST JUDICIAL DISTRICT  
OF MISSISSIPPI

L. BRELAND HILBURN

PLAINTIFF

VS.

JUN 6 1997

CAUSE NO. 97-1335

JOE K. McPHAIL

DEFENDANT

WILLIAM H. DUNN  
CIRCUIT CLERK

D.C.

NOTICE OF MOTION

PLEASE TAKE NOTICE that the undersigned will bring on for hearing the Motion for Summary Judgment before the Honorable William R. Barnett, County Court Judge, at the Hinds County Circuit Courthouse in Jackson, Mississippi on Friday, June 13, 1997, at 9:00 o'clock a.m. or as soon thereafter as counsel may be heard.

SO NOTICED, this the 4th day of June, 1997.

BY:

*Robert W. Sneed*  
ROBERT W. SNEED

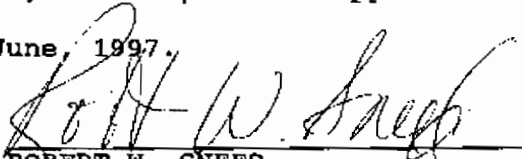
Attorney for L. Breland Hilburn

ROBERT W. SNEED, ATTORNEY  
503 South State Street  
Post Office Box 2251  
Jackson, Mississippi 39225-2251  
Telephone: (601) 354-0044  
MSB# 7663

CERTIFICATE OF SERVICE

I, Robert W. Sneed, do hereby certify that I have this day mailed by United States Mail, postage prepaid, a true and correct copy of the above and foregoing Notice of Motion to J. KEITH SHELTON, ESQUIRE, at P. O. Box 22641, Jackson, Mississippi 39225.

DATED, this the 4<sup>th</sup> day of June, 1997.

  
ROBERT W. SNEED

IN THE COUNTY COURT OF THE FIRST JUDICIAL DISTRICT OF  
HINDS COUNTY, MISSISSIPPI

L. BRELAND HILBURN

PLAINTIFF

VS

CAUSE NO. 97-1335

JOE K. MCPHAIL

DEFENDANT

SUMMARY JUDGMENT

This Cause having come on to be heard upon the Plaintiff's Motion for Summary Judgment and the Court having considered the law and evidence finds as follows:

That the Plaintiff's Motion for Summary Judgment came on for hearing at 9:00 a.m. on June 13, 1997, and the Defendant, having been duly noticed, failed to appear or respond to the Motion and is therefore in default.

That the Motion for Summary Judgment is supported by the law and evidence.

Therefore the Plaintiff is granted judgment against the Defendant Joe K. McPhail in the amount of \$6000.00 plus an attorney fee of \$600.00 plus interest of 8% from the date of the default for which let execution issue.

SO ORDERED AND ADJUDGED this the 13th day of June, 1997.

  
\_\_\_\_\_  
COUNTY COURT JUDGE

71  
148840

359-477

O#1397 R#0722

RECEIVED IN OFFICE  
This 23 day of June 1996  
M. E. McVail  
Shreveport, Hinds County, MS  
By CC D.S.

IN THE COUNTY COURT OF THE FIRST JUDICIAL DISTRICT OF  
HINDS COUNTY, MISSISSIPPI

L. BRELAND HILBURN

PLAINTIFF

v.

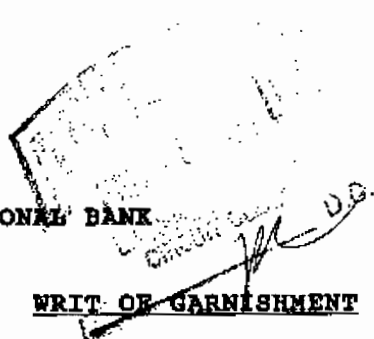
CAUSE NO. 97-1335

JOE K. MCPHAIL

DEFENDANT

DEPOSIT GUARANTY NATIONAL BANK

GARNISHEE



WRIT OF GARNISHMENT

STATE OF MISSISSIPPI  
COUNTY OF HINDS

TO ANY LAWFUL OFFICER OF HINDS COUNTY OR OTHER PERSON SO  
AUTHORIZED:

WHEREAS, L. Breland Hilburn, Plaintiff, enrolled the Judgment rendered against the Defendant, Joe K. McPhail, in Cause No. 97-1335, First Judicial District of Hinds County, Mississippi on the Judgment Roll of the First Judicial District of Hinds County, Mississippi on the 13th day of June, 1997;

WHEREAS, there is as of this date a balance due, including interests and costs, of \$7,047.00; and L. Breland Hilburn, having made proper Suggestion for a Writ of Garnishment against Deposit Guaranty National Bank;

HB

We therefore command you to summon said Deposit Guaranty National Bank, 210 East Capitol Street, Jackson, Mississippi 39205, who may be served with process of this Court by and through its LEGAL DEPARTMENT, Suite 1088, to answer, within thirty (30) days from the date of this Writ of Garnishment, under oath and in writing the following questions; and to deliver or mail within

STATE OF MISSISSIPPI  
COUNTY OF HINDS

Executed personally on the DEPOSIT  
GUARANTY NATIONAL  
BANK

by delivering a true copy of the within writ to  
B. J. NOCAISE,

LEGAL DEPARTMENT  
This 22<sup>nd</sup> day of FEBRUARY, 19 98

M. S. McMICHAEL, Sheriff  
By Stanley R. ... D.S.

said time a copy of their answer to:

ROBERT W. SNEED, ATTORNEY FOR PLAINTIFF  
503 South State Street  
Post Office Box 2251  
Jackson, Mississippi 39225-2251  
Telephone: (601) 354-0044

The original of the Garnishee's Answer must be filed with the Clerk of this Court. Failure to answer, as required, will result in judgment against the Garnishee for the amount to be garnished.

First - whether you be indebted to Joe K. McPhail, or were so indebted at the time of the service of the Writ on you, or have at any time since been so indebted; and if so indebted, at what sum, whether due or not, and when due or to become due and how the debt is evidenced and what interest it bears?

Second - What effects of the Defendant you have or had at the time of the service of the Writ on you or have had since in your possession or under your control?

Third - Whether you know or believe any person is indebted to Joe K. McPhail, and if so, whom, and what amount and where he resides?

Fourth - Whether you know or believe that any other person has effects of the Defendant in his possession or under his control and if so, who and where he resides?

Fifth - Whether the Defendant, Joe K. McPhail, is an employee of garnishee and, if so, the time interval between pay periods of the Defendant, including any specific day of a week or a month on which such Defendant is regularly paid?

Sixth - If Defendant, Joe K. McPhail, is your employee, his

wages, salary or other compensation is totally exempt for a period of thirty (3) days from the date of the service of this Writ, thereafter 75% of said wages, salary or other compensation due on to become due is exempt by law from garnishment. The remaining non-exempt disposable earnings shall be retained by you for such time as is necessary to accumulate a sum equal to the amount shown on the Writ as due and unless otherwise authorized by the Court shall make only one (1) payment to the Court when said amount has been accumulated, provided that at least one payment must be made per year for the amount withheld during the preceding year. If Joe K. McPhail, leaves your employment, you shall notify the Court within fifteen (15) days and pay unto Court all sums that have been withheld. Wages, salaries or other compensation as used in this garnishment shall mean wages, salaries, commissions, bonuses or other compensation paid for employment purposes only.

WITNESS MY SIGNATURE, this the 20 day of February, 1998.

BARBARA DUNN, COUNTY CLERK  
P. O. Box 327  
Jackson, Mississippi 39205

BY: *Phaley O.S.*

NOTE: See additional garnishment restrictions under Federal Law and State Law.

ROBERT W. SNEED  
ATTORNEY FOR PLAINTIFF  
503 South State Street  
Post Office Box 2251  
Jackson, Mississippi 39225-2251  
Telephone: (601) 354-0044  
MSB# 7663

IN THE COUNTY COURT OF THE FIRST JUDICIAL DISTRICT OF  
HINDS COUNTY, MISSISSIPPI

L. BRELAND HILBURN

PLAINTIFF

V.

**FILED**  
FEB 18 1998

CAUSE NO. 97-1335

JOE K. MCPHAIL

DEFENDANT

BARBARA DUNN  
CIRCUIT CLERK  
D.C.

DEPOSIT GUARANTY NATIONAL BANK

GARNISHEE

SUGGESTION FOR WRIT OF GARNISHMENT

WHEREAS, L. Breland Hilburn, Plaintiff, enrolled a Final Judgment, dated June 13, 1997, against the Defendant, Joe K. McPhail, for \$6,000.00 plus eight percent (8%) interest thereon the unpaid principal balance from and after June 13, 1997, until paid in full, plus all Court costs accruing, and whereas, no payment having been made, the entire sum of \$7,047.00 remains due and owing;

NOW, THEREFORE, L. Breland Hilburn, Plaintiff, by and through his attorney of record, suggests, on information and belief, that the following entity is indebted to Joe K. McPhail, in its hands, or know of some other person or corporation who is so indebted or has effects or property of Joe K. McPhail:

Deposit Guaranty National Bank  
210 East Capitol Street  
Jackson, Mississippi 39205

The Plaintiff suggests the issuance of a Writ of Garnishment

directed to the above named entity, to be served upon its LEGAL DEPARTMENT, SUITE 1088.

WITNESS MY SIGNATURE, this the 17<sup>th</sup> day of February, 1998.

Respectfully Submitted,

L. BRELAND HILBURN

BY: 

ROBERT W. SNEED

ROBERT W. SNEED  
503 South State Street  
Post Office Box 2251  
Jackson, Mississippi 39225-2251  
Telephone: (601) 354-0044  
MSB# 7663

ROBERT W. SNEED  
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February 17, 1998

Honorable Barbara Dunn  
Hinds County Court Clerk  
P. O. Box 327  
Jackson, Mississippi 39205-0327

RE: L. Breland Hilburn V. Joe K. McPhail  
Cause No. 97-1335  
Deposit Guaranty National Bank, Garnishee

Dear Barbara:

Please find enclosed an original and one (1) copy of a Suggestion for Writ of Garnishment, along with an original and two (2) copies of a Writ of Garnishment which I would appreciate your filing in the above referenced matter.

I have also enclosed my check made payable to the Hinds County Court Clerk in the amount of \$15.00 representing filing fees in this matter, as well as my check made payable to the Hinds County Sheriff's Department in the amount of \$25.00 for serving the enclosed Writ.

For your convenience, I have also enclosed a stamped, self-addressed envelope for your use in returning to me copies of the enclosed Writ and Suggestion after they have been stamped "filed" by your office.

As always, please feel free to give me a call if you have any questions or would like to discuss this matter.

Otherwise, thank you for your assistance in this matter.

Sincerely,

  
ROBERT W. SNEED

RWS/dy  
Enclosure  
cc: Honorable L. Breland Hilburn

**COVER SHEET**  
**Civil Case Filing Form**  
*(To be Completed by Attorney/Party  
 Prior to Filing of Pleading)*

Mississippi Supreme Court  
 Administrative Office of Courts

Form AOC/01  
 (Revised 1/94)

*(Shaded Area to be Completed by Clerk)*

**Court Identification**  
 Country     Jud. Dist.     Court (C/M/CH/CO)

**Case Number**  
 Year     Number     Pocket Code (If Applicable)

**Date of Filing**  
 Month     Day     Year

Case # If Opened prior to 3/1/94

IN THE \_\_\_\_\_ COURT OF \_\_\_\_\_ COUNTY

STYLE OF CASE: \_\_\_\_\_

Number of Parties:    PLAINTIFF(S):       DEFENDANT(S):

NATURE OF SUIT: In the left-hand column of boxes preceding the categories listed below, check the box (check only one) that best describes or categorizes the primary basis or theory of your suit. In the right-hand column, check all secondary categories applicable to the suit.

<p><b>1 TORTS</b>  <b>PERSONAL INJURY</b>  A <input type="checkbox"/> Bad Faith  B <input type="checkbox"/> Fraud  C <input type="checkbox"/> Malpractice - Legal  D <input type="checkbox"/> Malpractice - Medical  F <input type="checkbox"/> Malpractice - Other  H <input type="checkbox"/> Products Liability  G <input type="checkbox"/> Negligence (General)  H <input type="checkbox"/> Negligence - Motor Vehicle  J <input type="checkbox"/> Wrongful Death  K <input type="checkbox"/> Other _____</p> <p><b>PROPERTY INJURY</b>  L <input type="checkbox"/> Personality  M <input type="checkbox"/> Realty</p> <p><b>2 MASS TORT</b>  N <input type="checkbox"/> Asbestos  P <input type="checkbox"/> Chemical Spill</p>	<p>(MASS TORTS - Continued)  R <input type="checkbox"/> Dioxin  S <input type="checkbox"/> Hearing Loss  T <input type="checkbox"/> Hand/Arm Vibration  U <input type="checkbox"/> Other _____</p> <p><b>3 CIVIL RIGHTS</b>  V <input type="checkbox"/> Prisoner  W <input type="checkbox"/> Elections  X <input type="checkbox"/> Habeas Corpus  Y <input type="checkbox"/> Post Conviction Relief  Z <input type="checkbox"/> Other _____</p> <p><b>4 CONTRACT</b>  A <input type="checkbox"/> Insurance  B <input type="checkbox"/> Contracts-Product Liability  C <input type="checkbox"/> Specific Performance  D <input type="checkbox"/> Breach of Contract  E <input type="checkbox"/> Other _____</p>	<p><b>5 BUSINESS/COMMERCIAL</b>  G <input type="checkbox"/> Debt Collection  H <input type="checkbox"/> Employment  J <input type="checkbox"/> Pension  K <input type="checkbox"/> Receivership  L <input type="checkbox"/> Accounting  M <input type="checkbox"/> Business Dissolution - Corporation  N <input type="checkbox"/> Business Dissolution - Partnership  P <input type="checkbox"/> Stockholder Suit  R <input checked="" type="checkbox"/> Garnishment  S <input type="checkbox"/> Execution  T <input type="checkbox"/> Foreign Judgment  U <input type="checkbox"/> Other _____</p> <p><b>6 STATUTES/RULES</b>  V <input type="checkbox"/> Federal Statutes  W <input type="checkbox"/> Declaratory Judgment  X <input type="checkbox"/> Extraordinary Writ  Y <input type="checkbox"/> Railroad/Seaman</p>	<p>(STATUTES/RULES - Continued)  Z <input type="checkbox"/> Racketeering (RICO)  A <input type="checkbox"/> Eminent Domain  B <input type="checkbox"/> Injunction/TRO  C <input type="checkbox"/> Bond Validation  D <input type="checkbox"/> Municipal Annexation  E <input type="checkbox"/> Civil Forfeiture  F <input type="checkbox"/> ERISA  G <input type="checkbox"/> Other _____</p> <p><b>7 APPEALS</b>  H <input type="checkbox"/> Workers' Comp  J <input type="checkbox"/> M.E.S.C.  K <input type="checkbox"/> Justice Court  L <input type="checkbox"/> Municipal Court  M <input type="checkbox"/> County Court  N <input type="checkbox"/> Administrative Agency  P <input type="checkbox"/> Other _____</p>
<p><b>8 DOMESTIC RELATIONS</b>  A <input type="checkbox"/> Divorce - Fault  B <input type="checkbox"/> Divorce - Irrec. Diff.  C <input type="checkbox"/> Separate Maintenance  D <input type="checkbox"/> Child Support  E <input type="checkbox"/> Child Custody/Vsituation  F <input type="checkbox"/> Alimony  G <input type="checkbox"/> Property Division  H <input type="checkbox"/> Domestic Abuse  J <input type="checkbox"/> Termination of Parental Rights  K <input type="checkbox"/> Contempt</p>	<p>DOMESTIC RELATIONS (Continued)  I <input type="checkbox"/> Modification  M <input type="checkbox"/> URESA  N <input type="checkbox"/> Paternity  P <input type="checkbox"/> Other _____</p> <p><b>9 PROBATE</b>  R <input type="checkbox"/> Intestate Estate  S <input type="checkbox"/> Testate Estate  T <input type="checkbox"/> Will Contest  U <input type="checkbox"/> Muniment of Title  V <input type="checkbox"/> Removal of Minority</p>	<p>PROBATE (Continued)  W <input type="checkbox"/> Guardianship  X <input type="checkbox"/> Conservatorship  Y <input type="checkbox"/> Birth Certificate Correction  Z <input type="checkbox"/> Name Change  A <input type="checkbox"/> Adoption - Contested  B <input type="checkbox"/> Adoption - Uncontested  C <input type="checkbox"/> Minor's Settlement  D <input type="checkbox"/> Commitment  E <input type="checkbox"/> Heirship  F <input type="checkbox"/> Other _____</p>	<p><b>10 REAL PROPERTY</b>  G <input type="checkbox"/> Title, Boundary Easement  H <input type="checkbox"/> Partition  J <input type="checkbox"/> Judicial Foreclosure  K <input type="checkbox"/> Eminent Domain  L <input type="checkbox"/> Lien Assertion  M <input type="checkbox"/> Adverse Possession  N <input type="checkbox"/> Tax Sale Cont./Canc.  P <input type="checkbox"/> Other _____</p>

ORIGIN (Check One)  Initial Filing     Reopened     Remanded     Appeal     Reinstated     Other \_\_\_\_\_

Signature of Attorney \_\_\_\_\_ (Check if Not Att. Attorney)    (Bar Number If Attorney) \_\_\_\_\_

Party Filing Form: \_\_\_\_\_ Date: \_\_\_\_\_

**DISPOSITION DATA (Shaded Area to be Completed by Clerk)**

<b>FINAL DISP. DATE</b> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> (Month) (Day) (Year)	<b>JURY TRIAL</b> <input type="checkbox"/> (If Applicable)	<b>BENCH TRIAL</b> <input type="checkbox"/> (If Applicable)	<b>TOTAL TRIAL DAYS</b> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> (If Applicable)	<b>JUDGE CODE</b> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> (Bar Number)
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**METHOD OF DISPOSITION**

A <input type="checkbox"/> Dismissed	E <input type="checkbox"/> Final Judgment	K <input type="checkbox"/> Guardian/Cons. Closed	P <input type="checkbox"/> Removal to Fed. Court
B <input type="checkbox"/> Dismissed, Lack of Prosecution	F <input type="checkbox"/> Transferred	L <input type="checkbox"/> Fiduciary Appointed	R <input type="checkbox"/> Writ Issued
C <input type="checkbox"/> Default Judgment	G <input type="checkbox"/> Change of Venue	M <input type="checkbox"/> Estate Closed	S <input type="checkbox"/> Protective Order
D <input type="checkbox"/> Judgment by Stipulation	H <input type="checkbox"/> Case Consolidation	N <input type="checkbox"/> New Trial Granted	T <input type="checkbox"/> Summary Judgment
J <input type="checkbox"/> Other _____			

WHITE: SEND TO AOC    YELLOW: DISPOSITION COPY - SEND TO AOC    PINK: FILE COPY - RETAIN IN FILE

HINDS COUNTY 1ST JUDICIAL DISTRICT JUDGEMENT ROLL  
CONTROL NUMBER 148840

JUDGEMENT  
NUMBER  
97-1335

D E F E N D A N T S  
MCPHAIL JOE K

AMOUNT  
6600.00

RENDITION  
DATE  
61397

TYPE OF COURT  
COUNTY

MINUTE  
BOOK AND PAGE  
359 477

PLAINTIFFS

L BRELAND HILBURN

DATE  
SATISFIED

ATTESTED BY

*Book 71*

XMIT--> \_

INQUIRY ONLY---F1 OR XMIT TO RETURN TO MENU

*[Handwritten signature]*

*71*  
*148840*  
*Cancelled*

**FILED**  
APR 01 1998

*[Signature]*  
BARBARA DUNN  
CIRCUIT CLERK  
D.C.

IN THE COUNTY COURT OF THE FIRST JUDICIAL DISTRICT OF  
HINDS COUNTY, MISSISSIPPI

L. BRELAND HILBURN

PLAINTIFF

V.

CAUSE NO. 97-1335

JOE K. McPHAIL

DEFENDANT

AGREED ORDER AND JUDGMENT OF DISMISSAL

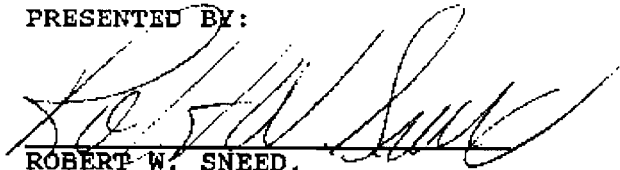
This day this cause came on for hearing on the motion of the Plaintiff to dismiss this matter with prejudice and the Court having been apprised that all parties have reached an amicable and agreeable resolution of their differences finds that Plaintiff's motion is well taken and should be granted.

IT IS, THEREFORE, ORDERED AND ADJUDGED, that this cause should be and hereby is dismissed with prejudice with the parties to bear their respective costs.

SO ORDERED AND ADJUDGED, this the 6<sup>th</sup> day of April, 1998.

  
COUNTY COURT JUDGE

PRESENTED BY:

  
ROBERT W. SNEED,  
ATTORNEY FOR THE PLAINTIFF  
503 South State Street  
Post Office Box 2251  
Jackson, Mississippi 39225-2251  
Telephone: (601) 354-0044  
MSB# 7663

375-315