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IN THE SUPREME COURT OF MISSISSIPPI
CASE

KENNETH and SHINA McKENZIE **APPELLANTS**

v.

MISSISSIPPI MUNICIPAL SERVICE COMPANY **APPELLEE**

BRIEF OF APPELLANT

On Appeal from the Chancery Court of Jones County, Mississippi
Second Judicial District
Cause 2012-0213

ORAL ARGUMENT NOT REQUESTED

Submitted by
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IN THE SUPREME COURT OF MISSISSIPPI

KENNETH and SHINA McKENZIE APPELLANTS

v.

MISSISSIPPI MUNICIPAL SERVICE COMPANY APPELLEE

CERTIFICATE OF INTERESTED PERSONS

The following have an interest in the outcome of this matter. These representations are made pursuant to Mississippi Supreme Court Rule 28(a)(1) so Justices of this Honorable Court may evaluate possible disqualification and/or recusal.

1. Kenneth McKenzie, Appellant
2. Shina McKenzie, Appellant
2. Vanessa J. Jones, Counsel for Appellant
3. Mississippi Municipal Service Company, Appellee
4. Grant Bennett, Counsel for Appellee
5. The Honorable Franklin C. McKenzie, Jr., Chancery Court Judge

DATED the 2nd day of July, 2015.

/s/ Vanessa J. Jones
Vanessa J. Jones, MSB 10236

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Mills v. Wagner, 47 So. 899, 94 Miss. 223 (1909)

Miss. Dep't of Public Safety v. Stringer, 748 So.2d 662 (Miss. 1999)

Page v. University of Southern Mississippi, 878 So.2d 1003 (Miss. 2004)

PMZ Oil Co. v. Lucroy, 449 So.2d 201 (Miss. 1984)

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Rules

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STATEMENT OF THE ISSUES

1. The Chancery Court Erred in Setting Aside the Clerk's Entry of Default.

2. Genuine Issues of Material Fact Exist: The Chancery Court Erred in Granting Summary Judgment.

3. The Chancery Court Erred in Calculating the Statute of Limitations.

STATEMENT OF THE CASE

Nature of the Case

Kenneth and Shina McKenzie sustained significant damages and injuries in a car wreck caused by the City of Laurel. Mississippi Municipal Service Company (Appellee) negotiated on behalf of the City and when negotiations were inconclusive the McKenzies were left with no option but to initiate legal actions. The McKenzies filed and Appellee was granted a summary judgment against the McKenzies. The McKenzies appeal from that summary judgment.

Facts and Procedural History

On April 22, 2010, Kenneth and Shina McKenzie travelled north on 16th Avenue in Laurel and Officer Christopher Thompson of the Laurel Police Department travelled south. Officer Thompson negligently and recklessly turned in front of the McKenzies, causing a serious wreck and injuring every driver and passenger of both cars. Kenneth McKenzie alone suffered a fractured hip; broken left leg; injuries to his back, neck, legs, scalp, face and jaw; and multiple bruises, contusions and cuts to the head, face, arms, legs, back, neck and shoulders. A copy of the official Accident Report is attached in the Record Excerpts pages 1 through 6 (R. Ex. 1-6).

In an attempt to conclude this matter, the McKenzies initiated negotiations with the City of Laurel on April 29, 2010. R. Ex. 7-8 (enclosures omitted). Appellee responded with an offer to settle the McKenzies' property damage for ten percent (10%) of that claim's value and the McKenzies declined the paltry offer on June 9, 2010. In the June 9 letter, the McKenzies specifically advised Appellee Mr. McKenzie was undergoing continued medical treatment for the serious injuries he sustained in the car wreck. R. Ex. 9. On July 7, 2010, the McKenzies received a response from the Appellee accepting representation of the City of Laurel for the McKenzies' claims. R. Ex. 10. On April 22, 2011—the anniversary of the car wreck—the

McKenzies wrote Appellee advising yet again Mr. McKenzie continued medical treatment for injuries resulting from the car wreck and requesting a statement of position from Appellee. R. Ex. 11. On May 3, 2011 Appellee requested the McKenzies respond on its second offer to settle property damage, medical bills, and pain and suffering. The Appellee accepted the offer to settle and promised, "We are willing to compromise on this case." R. Ex. 12. On August 2, 2011, the McKenzies accepted Appellee's second settlement offer for property damage and stated they would "forward medicals to date." R. Ex. 13. Appellee took a considerable amount of time investigating the wreck and finally on September 12, 2011 extended an offer of settlement based on the "to date" medical records and bills submitted by the McKenzies. R. Ex. 14 (enclosures omitted). An offer to pay a total of twenty six thousand dollars ($26,000.00) was extended to the McKenzies.

Mr. McKenzie was still receiving treatment, however, and requested updated medical records and bills to submit to Appellee. Mr. McKenzie eventually concluded treatment for injuries related to the wreck caused by the City of Laurel and sent his additional medical records and bills to Appellee with a counter-offer on December 15, 2011. On December 19, 2011, Appellee responded to the counter-offer by stating the statute of limitations had run and Appellee would not participate in further negotiations. R. Ex. 15. The McKenzies sent an email to Appellee on December 27, 2011 and Appellee responded by letter on January 5, 2012 with yet another counter-offer to settle the matter. R. Ex. 16.

The McKenzies filed their Complaint on March 2, 2012 requesting specific performance and alleging bad faith and breach of agreement, fraud and negligence. R. Ex. 17-23 (exhibits omitted). On March 30, 2012 the McKenzies personally served Marion Alferd in his capacity as

Appellee's Vice President (R. Ex. 24-25) the Complaint and propounded Interrogatories, Requests for Production and Requests for Admission. R. Ex. 26-31.

Appellee chose not to respond to the Complaint and Discovery, so on May 17, 2012 the McKenzies filed with the Clerk an Application for Entry of Default and Supporting Affidavit, Docket Entry of Default, Motion for Default Judgment and Notice of Motion for Default Judgment. R. Ex. 32-37. Suddenly, the Appellee was interested enough to deign the court with its presence arguing it failed to show because "no action was thought to be necessary." Resp. to Mtn for Default Judgment, ¶8. Appellee noticed hearings for its motions for June 26, 2012 and the McKenzies in the interests of judicial economy re-noticed their hearing for the same day and time. R. Ex. 38.

On June 26, 2012, Chancellor McKenzie heard the various motions before his court and acknowledged the Complaint is made as a contractual claim. Transcript 8.4-7. The Chancellor then went on to say "the crux of the matter" (*Id.* at 8.25-9.1) before him was "where there is an offer that is outstanding until such time as it is either accepted or rejected or for some other legal reason it ceases to be valid." *Id.* at 9.4-7. The Chancellor sustained Appellee's motion to set aside the Clerk's entry of default, but denied its other motions. Id. at 16.19-21.

Appellee responded to the McKenzies' Requests for Admission on July 2, 2012, one hundred thirty one (131) days after the McKenzies' propounded them, but never bothered to respond to Interrogatories and Requests for Production. The Admissions are therefore deemed to be admitted.

On December 6, 2012 the McKenzies sent proposed trial dates to Appellee and requested a response, but Appellee chose not to respond. On January 29, 2013 the McKenzies sent a second set of proposed trial dates with a request for response, but Appellee chose not to respond.

Left with no other choice, the McKenzies on February 19, 2013 filed a Motion to Set Cause and noticed Appellee of the hearing date. Yet again, Appellee suddenly became interested in the matter and squandered judicial economy by postponing. Appellee finally in an Agreed Order for Trial Setting acquiesced to a bench trial.

Before trial, however, Appellee moved for summary judgment based on its argument the statute of limitations had run on the McKenzies' claims; the McKenzies opposed and a hearing was conducted on July 17, 2014 at which the Chancellor sustained Appellee's motion and dismissed the matter. The McKenzies appealed and file this Brief with this Honorable Court.

Standard of Review

Mississippi Rule of Civil Procedure 56(c) governs motions for summary judgment. "When reviewing a trial court's grant of summary judgment, our standard of review is de novo." *Webb v. Braswell*, 930 So.2d 387, 395 (Miss. 2006). This Honorable Court "must examine all the evidentiary matters" (*Id.*) in the light most favorable to the nonmoving party. *McCullough v. Cook*, 679 So.2d 627, 630 (Miss. 1996). To succeed on a motion for summary judgment, the moving party must prove no genuine issue of material fact exists. *Id.*

ARGUMENTS

The McKenzies made a contractual argument in the Chancery Court because Appellee agreed to continue good faith negotiations after the statute of limitations in exchange for the McKenzies not filing a Tort Claims Act complaint. The McKenzies relied on Appellee's representations and missed the statute of limitations to file their claim. Appellee then altered is course and broke off negotiations. At the hearing of its motion for summary judgment, Appellee argued no genuine issues of material fact exist in this matter because the statute of limitations ran. The Chancery Court relied on Appellee's math to determine no issues exist, but Appellee's

math is demonstrably incorrect. Under the proper statute of limitations, issues exist in this matter because Appellee continued its contractual behavior well after the statute ran.

1. The Chancery Court Erred in Setting Aside the Clerk's Entry of Default.

The Chancery Court of Jones County set aside the Clerk's Entry of Default due to an alleged impropriety in service of process. The McKenzies, however, presented rather clear evidence of proper service and Appellee presented itself to court claiming it was never properly served. Mississippi Rule of Civil Procedure 4(d)(4) states in pertinent part the following.

> The summons and complaint shall be served together. Service by sheriff or process server shall be made as follows: . . . (4) Upon a domestic or foreign corporation . . . by delivering a copy of the summons and of the complaint to an officer, a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process.

The Chancery Court was correct to inquire whether Mr. Alferd was the registered agent for Appellee, but his lack of status as registered agent does not automatically negate the McKenzies' proper service of process. "[W]e must examine each case to determine whether the person was authorized as an agent for purposes of accepting service of process." *Johnson v. Roa*, 952 So.2d 151, 156 (Miss. 2007).

This Honorable Court defines agent "[to] include only agents vested with some general authority and discretion, and not to extend to mere employees having no independent powers." *Mills v. Wagner*, 47 So. 899, 901 (1909)(citations omitted). Employees with some authority are classified as agents authorized to accept service of process on behalf of an employer. *Id.*

In *McPherson v. McLendon*, 221 So.2d 75, 77-78 (Miss.1969), this Honorable Court reversed a directed verdict when the acts of an insurance company were sufficient for the jury to find the company clothed an employee with apparent authority and the plaintiffs relied on said actions. Although this precedent is also applicable to the question in this matter of whether a

contract existed between the parties, relevant to the instant review this Honorable Court examined the general laws of agency and stated the following.

> The power of an agent to bind his principal is not limited to the authority actually conferred upon the agent, but the principal is bound if the conduct of the principal is such that persons of reasonable prudence, ordinarily familiar with business practices, dealing with the agent might rightfully believe the agent to have the power he assumes to have. The agent's authority as to those with whom he deals is what it reasonably appears to be. So far as third persons are concerned, the apparent powers of an agent are his real powers.

McPherson, 221 So.2d at 78. Apparent authority to accept service of process is based on actual authority an employee has with his employer and the perception of that authority by a third party.

In this case, the McKenzies sent a process server. Mr. Alferd was still in the building and had the keys to allow the process server in. Mr. Alferd has his own office, was professionally dressed and is Vice President of Appellee. He accepted process as an agent on behalf of his employer. Certainly Mr. Alferd had actual authority with Appellee and "as third persons are concerned"—in this case, the process server—Mr. Alferd had apparent authority to accept service of process.

A similar case is *Williams v. Kilgore*, 618 So.2d 51 (Miss. 1992) and this Honorable Court addressed whether service of process on an office manager was indeed service on the principal pursuant to Mississippi Rule of Civil Procedure 4. Defendant and his office manager stated in affidavits the office manager was not authorized to accept service, but this Honorable Court held, "We find nothing in our case law which precludes the acceptance of service of process by an agent such as an office manager, who, by custom and practice, is vested with apparent authority to do so." *Williams*, 618 So.2d at 56.

Although the Chancery Court was correct to inquire whether Mr. Alferd was the registered agent for Appellee, its reliance on his lack of precise status was faulty. The Chancery

Court's ruling of setting aside the Clerk's Entry of Default based on imperfect service is therefore also faulty. This Honorable Court considers these questions on a case-by-case basis and the facts of this case demonstrably show the McKenzies followed both the letter and the spirit of Rule 4 and served Mr. Alford in his capacity as Vice President of Appellee and as "an officer, a managing or general agent, or . . . other agent authorized by appointment or by law to receive service of process." The Chancery Court relied on whether Mr. Alferd was the *registered* agent of service in dismissing the Clerk's Entry of Default and did so incorrectly. This Honorable Court should uphold its clear precedents by overturning the Chancery Court's dismissal of the Clerk's Entry.

2. Genuine Issues of Material Fact Exist: The Chancery Court Erred in Granting Summary Judgment.

Mississippi precedent unambiguously relays proper calculations for determining the statute of limitations for a Tort Claims Act claim. Appellee miscalculated the statute of limitations and thereby inadvertently misrepresented to the Chancery Court the appropriate course of action. The Chancery Court relied upon Appellee's miscalculation to draw its judgment. The Chancery Court's Final Judgment **six (6) times** specifically cites a lack of genuine issue of material fact as to a contractual agreement, but genuine issues of material fact exist in this matter when correct calculations are applied. An appropriate calculation showing the correct statute of limitation pursuant to precedent established by this Honorable Court paints a picture so wholly different than that Appellee presented to the Chancery Court as to render entirely moot the court's reliance on the Appellee's miscalculation.

If negotiations between the McKenzies and Appellee failed and the McKenzies were forced to file suit, the claim would have been brought under the Tort Claims Act; the McKenzies and Appellee both acknowledge this fact during the July 2014 hearing. Transcript at 17.15. At

the hearing, Appellee argued the statute of limitations would have run on November 21, 2011. Transcript at 17.22-23. Although such a mistake does not enter into the statute of limitations calculations, Appellee from the beginning of this matter misunderstands the timeline: the wreck occurred April 22, 2010 (R. Ex. 1), the McKenzies sent their initial correspondence to Appellee on April 29, 2010 (R. Ex. 7) and Appellee at hearing refers to the timing as "a month and six days after this accident."

Appellee's confusion continued when it stated its September 12th letter offering settlement "was made . . . well in advance of the expiration of the statute of limitations on this claim." Transcript 19.17-19.

Court:	When did the statute of limitations expire on the [McKenzies'] claim?
Appellee:	November 21st.
Court:	2011?
Appellee:	Correct.

Transcript 19.26 – 20.1. The Court later explicitly stated its reliance on Appellee's calculations: "And then the next correspondence says, well, that statute of limitations expired on the claim November 21—well, it doesn't say November 21, but I take his word that that's when it expired." Transcript 24.6-9.

This Honorable Court provides clear and concise examples of what it considers the appropriate calculation of the statute of limitations in Tort Claims Act cases. The first example is the most applicable to the McKenzies.

> If the cause of action occurs on January 1, 2003, and notice is received on February 1, 2003 (31 days later), the 120-day tolling period would end on June 1, 2003. However, if the claim is denied on March 1, 2003, the tolling period would end immediately. If the claim is denied by the governmental entity on March 1, 2003, the claimant would have 334 days left in the original one-year statute (365 days minus 31 days). Adding the additional 90 days to file suit, the action would have to be filed by April 28, 2004 (2004 is a leap year).

Page v. University of Southern Mississippi, 878 So.2d 1003, 1008 (Miss. 2004).

Applying this Honorable Court's math leads to the following calculations. The cause of action occurred on April 22, 2010 and notice was provided on April 29, 2010 (7 days later), so the 120 day tolling period would end August 27, 2010. The claim was denied, however, on May 28, 2010, ending the tolling period immediately. The McKenzies then have 358 days left in the original one year statute (365 days minus 7 days), meaning the statute would run on May 20, 2011. Adding the additional 90 days to file suit, the action would have to be filed by August 18, 2011.

The McKenzies recognized this fact and sent correspondence to Appellee on the one (1) year anniversary of the wreck advising Mr. McKenzie continued medical treatments and requesting a statement of position from Appellee. R. Ex. 11. The *specific purpose* of this letter was to ascertain whether Appellee would in good faith continue negotiations for damages after the Tort Claim deadline so as to avoid litigation. Appellee responded on May 3, 2011—after the one (1) year deadline—requesting a response from the McKenzies on its second offer to settle property damage and promising, "We are willing to compromise on this case." R. Ex. 12. On August 2, 2011, the McKenzies accepted Appellee's second settlement offer for property damage and stated they would "forward medicals to date." R. Ex. 13. Appellee's willingness to negotiate and settle after the deadline lead the McKenzies' to conclude quite reasonably Appellee continued to negotiate in good faith. The McKenzies address this reliance at the second hearing.

> [O]n April 22nd of 2011, [the McKenzies] sent a correspondence to Ms. Quinn [for Appellee] in regards to this to let me know in writing whether or not you all are going to pay these claims. And after that letter, she went ahead and submitted the check for the property damage and all of the that [*sic*]. And that was our contract at that point—they either you're going to pay these claims or we're going to go ahead and file suit. And from that she went ahead and filed the property—and actually paid the property damage and advised me to submit the medical records when Mr. McKenzie was released from treatment.

Transcript 24.13-26.

The McKenzies clearly contemplated they had a contract with Appellee and Appellee led them to believe so. After all, Appellee was content to negotiate and settle property damage after the one (1) year anniversary because it suited Appellee. The McKenzies anticipated the actual August 18, 2011 statute of limitation deadline and wanted to ensure the contract with Appellee was still held, so sent correspondence to Appellee yet again on August 9, 2011 with Mr. McKenzie's updated medical records. Appellee chose not to respond until September 12, 2011—***twenty five (25) days after the statute ran***—and offered to settle the matter based on review of then-available medical records. R. Ex. 14 (enclosures omitted). Naturally, the McKenzies accepted this offer as a clear sign Appellee would continue to negotiate in good faith since such an offer after a statute of limitations could serve no other purpose.

Mr. McKenzie eventually concluded treatment for injuries related to the wreck caused by the City of Laurel and sent his additional medical records and bills to Appellee on December 15, 2011 with a counter-offer to continue the good faith negotiations for settlement which Appellee had already continued after the statute of limitations. Instead of negotiations, however, Appellee pulled the proverbial rug from under the McKenzies by suddenly and without warning reversing its position and embracing a hard-line interpretation of the statute of limitations. The McKenzies sent an email to Appellee on December 27, 2011 and Appellee responded by letter on January 5, 2012 with yet another counter-offer to settle the matter, furthering consideration that good faith negotiations were contractually supposed to continue—and actually did continue—well after the statute of limitations. R. Ex. 16.

But for Appellee's miscalculations and the Chancery Court's reliance on them, the court would have seen the genuine issues of material fact which exist in the promises and contractual

obligations in this matter and how Appellee did not abide by them. This Honorable Court should remand this matter to the trial court overruling the grant of summary judgment.

3. The Chancery Court Erred in Calculating the Statute of Limitations.

"Equitable estoppel requires a representation by a party, reliance by the other party, and a change in position by the relying party." *Carr v. Town of Shubuta*, 733 So.2d 261, 265 (Miss. 1999)(quoting *Westbrook v. City of Jackson*, 665 So.2d 833, 839 (Miss.1995)). To evoke equitable estoppel to toll a statute of limitations the McKenzies must be able to prove by a preponderance of the evidence (1) they were induced by Appellee's conduct not to file their complaint sooner (2) resulting in their claims being barred by the statute of limitations and (3) Appellee knew or had reason to know such consequences would follow. *Harrison Enters. v. Trilogy Commc'ns, Inc.*, 818 So.2d 1088, 1095 (Miss. 2002)(citing *PMZ Oil Co. v. Lucroy*, 449 So.2d 201, 206 (Miss.1984)).

This Honorable Court held the inducement element "may consist either of an express representation that the claim will be settled without litigation or conduct that suggests a lawsuit is not necessary." *Miss. Dep't of Public Safety v. Stringer*, 748 So.2d 662, 666 (Miss.1999)(quoting *Black v. Lexington Sch. Dist. No. 2*, 327 S.C. 55, 488 S.E.2d 327, 330 (1997))(internal quotations omitted).

Certainly in this matter the correspondence between the McKenzies and Appellee clearly demonstrates Appellee induced the McKenzies not to file their claims by promising cooperation and compromise. R. Ex. 12. Appellee then took affirmative steps in confirming this obligation by soliciting a counter-offer after the one (1) year deadline and making a counter-offer after the actual statute of limitations. Appellee's seduction is the reason the McKenzies missed their

statute to file. Appellee should then be barred from evoking the statute of limitations when it knowingly and openly cajoled the McKenzies into missing their deadline to file.

The McKenzies fully recognize this Honorable Court cautioned, "Equitable estoppel is an extraordinary remedy and should only be invoked to prevent unconscionable results. The doctrine of equitable estoppel is not applied except when to refuse it would be inequitable." *Harrison Enters.*, 818 So.2d at 1095 (internal citations and quotations omitted). This matter, however, is a prime example of the extraordinary nature of inequity among and between the parties: Appellee is a major corporation and the McKenzies are innocent citizens with massive medical bills. This Honorable Court has previously ruled equitable estoppel can be applied to bar a defendant (Appellee) from raising the statute of limitations as a defense where the defendant's (Appellee's) actions lulled the plaintiff (the McKenzies) into not filing suit. See *Izard v. Mikell*, 163 So. 498 (1935) and *Ezell v. Williams*, 724 So.2d 396 (Miss. 1998).

Appellee wants to hold the McKenzies to a strict interpretation of the statute of limitations, but Appellee forfeited its opportunity to embrace the statute when it waived the same statute for its own benefit. This Honorable Court should remand this matter to the trial court overruling the grant of summary judgment.

CONCLUSION

The Court erred in setting aside the Default Judgment. The statute of limitations for the McKenzies' claims was miscalculated and the Chancery Court's reliance thereon clouded the issues. Genuine issues of material fact are present in this matter. Further, Appellee's rush to enforce its own statute of limitations after obligating itself to good faith negotiations is grossly inequitable to the McKenzies and their mountain of medical bills.

This Honorable Court should overrule and/or void summary judgment and remand this matter for trial in compliance with all applicable Statutes and Rules.

RESPECTFULLY SUBMITTED the 2nd day of July, 2015.

Kenneth and Shina McKenzie, Appellants
By and Through Their Attorneys
JONES LAW FIRM

/s/ Vanessa J. Jones
Vanessa J. Jones

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CERTIFICATE OF SERVICE

I delivered copies of the foregoing to the following via United States Postal Service, first class postage prepaid as Chancellor and representatives of Appellee.

The Honorable Franklin C. McKenzie, Jr.
Chancery Court Judge
415 North 5th Avenue
Laurel, Mississippi 39441

L. Grant Bennett
Law Office of L. Grant Bennett, Sr., PLLC
Post Office Box 18229
Hattiesburg, Mississippi 39404
Counsel for Appellee

DATED the 2nd day of July, 2015.

/s/ Vanessa J. Jones
Vanessa J. Jones

CERTIFICATE OF SERVICE AS TO FILING

I delivered for filing the foregoing to the Clerk of this Honorable Court via the Mississippi Electronic Court e-file system.

Kathy Gillis, Clerk
Mississippi Supreme Court
Post Office Box 249
Jackson, Mississippi 39205

DATED the 2nd day of July, 2015.

/s/ Vanessa J. Jones
Vanessa J. Jones

IN THE SUPREME COURT OF MISSISSIPPI
CASE 2013-TS-01352

SHINA AND KENNETH McKENZIE **APPELLANTS**

v.

MISSISSIPPI MUNICIPAL SERVICE COMPANY **APPELLEE**

APPELLANT'S RECORD EXCERPTS

Submitted by
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STATE OF MISSISSIPPI
UNIFORM CRASH REPORT

Agency Number: 3402 Agency Case Number: 2010011167 Page 01 of 07

Agency Name: LAUREL POLICE DEPT
G1. County: 34
G2. Status Code: C P U

G3. Reported Date (MM/DD/YYYY): 04/22/2010
G4. Reported Time (2400): 1014
G5. Officer Time: Arrival Time (2400): 1014 | 10-24 Time (2400): 1120
G6. Vehicles: 02 G7. Killed: 00 G8. Injured: 02

G9. Address Number:
G10. Street Name: 16TH AVE
G11. Hwy/County Road #:
G12. Traffic Flow Direction: N E S W

G13. Int: Y N
G14. Distance: F M
G15. Direction: N E S W
G16. Intersecting Street Name: 3RD STREET
G17. Int. Hwy/County Road #:

G18. City Name: LAUREL
G19. Latitude: N 31 41.508
G20. Longitude: W 089 08.797

G21. First Harmful Event: Rear end slow or stop; Rear end turn; Left turn same roadway; Left turn cross traffic; Right turn cross traffic; Head on; Sideswipe; Angle; Hit and run; Overturn; Jackknife; Fell from vehicle; Other; Pedestrian; Parked Vehicle; Train; Bicyclist; Deer; Animal (other than deer); Bridge/Culvert; Embankment/Ditch/Curb; Guardrail/Median Barrier; Tree; Utility pole/light support; Other fixed object; Sign Post; Signal standard; Building/Other Structure; Maint. Equip. - Not Moving; Maint. Equip. - Moving; Other non-fixed object

G22. Crash Location: Roadway; Off-Roadway; Median; Roadside; Shoulder; Parking Lot; Gore

G23. Intersection Type: None; Four-way inter; T - Intersection; Crossover; Driveway; Five-point or more; Off Ramp; On Ramp; Path/Trail; RR Xing; Traffic Circle/Round; Y - Intersection

G24. Roadway System: City Street; State Highway; U.S. Highway; County Road; Parking Lot/Private Drive; Interstate; Off Road; State Park

G25. Light Condition: Daylight; Dark-Lit; Dark-Unlit; Dawn; Dusk

G26. Road Condition: Dry; Wet; Water; Sand/Mud/Dirt/Oil/Grave; Ice; Slush; Snow

G27. Weather Condition (2): Clear; Blown Debris; Rain; Fog/Smog/Smoke; Cloudy; Sleet/Hail; High winds; Snow

G28. Workzone Relationship: Not Workzone Related; Within Construction Zone; Advance Warning Area

G29. Workzone Type (2): None; Intermittent or Moving Work; Lane Closure; Lane Shift/Crossover; Shoulder/Median Work; Utility

WITNESS(ES)

G30. First Name: NICK ID: Last Name: MESSERSMITH
G31. Address: 419 YATES AVE. G32. Phone Number: 6013194274
G33. City: LAUREL G34. State: MS G35. Zip Code: 39440
G36. Sex: M F G37. Age: 39

G38. First Name: WILLIE ID: Last Name: WALKER
G39. Address: 1153 SIMPSON HWY 13 G40. Phone Number: 6018081212
G41. City: MAGEE G42. State: MS G43. Zip Code: 39318
G44. Sex: M F G45. Age: 40

G46. Badge Number: B207
G47. Investigating Officer Name (Please Print): CPL KENNY ROGERS
G48. Officer Signature: CPL KENNY ROGERS

G49. Reviewing Badge Number: B95
G50. Reviewing Officer Initials: RM
G51. Photos Taken: Y N
G52. Photographer and Badge #: SGT. MICHEAL REEVES

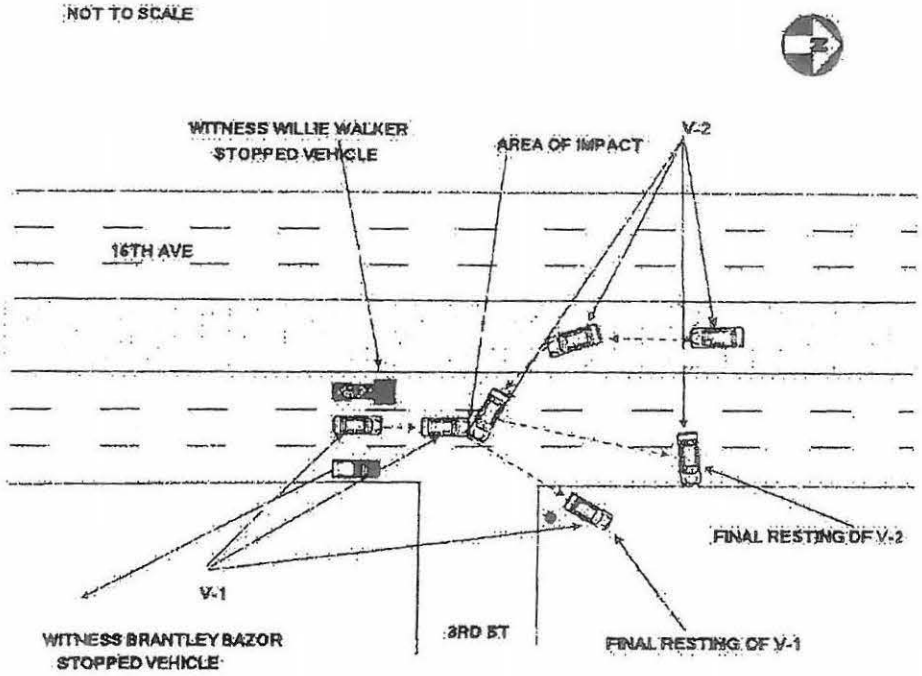
9582404259

030

MUCR Diagram/Narrative 3402 — 2010011167 Page 02 of 07

#1 Collision Diagram

NOT TO SCALE



#2 Collision Narrative

DRIVER OF V-1 WAS TRAVELING NORTH ON 16TH AVE.

DRIVER OF V-2 WAS TRAVELING SOUTH IN THE TURN LANE ON 16TH AVE. NEAR 3RD ST. WITH BLUE LIGHTS AND SIREN ACTIVATED.

DRIVER OF V-1 WAS TRAVELING NORTH ON 16TH AVE NEAR 3RD ST. WHEN SHE OBSERVED V-2 TURN IN FRONT OF V-1 CAUSING V-1 TO STRIKE V-2 IN THE RIGHT FRONT END AREA.

DRIVER OF V-2 STATED THAT HE WAS RESPONDING TO A CALL FOR SERVICE WITH HIS BLUE LIGHTS AND SIREN ACTIVATED. DRIVER V-2 STATED THAT A EIGHTEEN WHEELER STOPPED FOR THE POLICE CAR IN THE INSIDE LANE AND ANOTHER VEHICLE STOPPED IN THE RIGHT HAND TURN. V-2 DRIVER STATED THAT HE ATTEMPTED TO MAKE A LEFT TURN ACCROSS TRAFFIC WHEN V-1 STRUCK V-2 IN THE RIGHT FRONT END.

WITNESS BRANTLEY BAZOR STATED THAT HE OBSERVE V-2 WITH BLUE LIGHTS AND SIREN COMING SOUTH IN THE TURN LANE AND THAT HE WAS IN THE RIGHT HAND TURN LANE AND STOPPED FOR THE POLICE CAR. BAZOR OBSERVED V-1 STRIKE V-2 AND ADVISED OFFICERS THAT A BLACK FEMALE WAS THE DRIVER OF V-1 AND THAT SHE GOT OUT AND CAME TO THE PASSENGER SIDE TO CHECK ON THE PASSENGER.

THE DRIVER OF V-1 AMITTED TO CPL. ROGERS THAT SHE HAS HAD SEZIURES IN THE PAST AND WAS TOLD NOT TO BE DRIVING.

MUCR Person/Occupant

V0 Veh # 01 | P0 Person # 01 | Agency Number 3402 | Agency Case Number 2010011167 | Page 03 of 07

P1 Person Type: (●) Driver ( ) Pedestrian ( ) Bicyclist ( ) Skater ( ) Other non-motorist ( ) Train Engineer ( ) Hit and Run Driver ( ) LE

P2 Driver License # | P3 State | P4 CDL? ( ) N ( ) Y | P4a CDL Class ( ) A ( ) B ( ) C ( ) D ( ) M

P5 DOB (MM/DD/YYYY) 08/24/1977 | P35 Cellular Phone In Use? ( ) Y (●) N

P6 First Name: SHINA | MI: G | Last Name: MCKENZIE

P7 Address: 1597 COUNTY RD 39 | P8 Phone Number: 6015771782

P9 City: PAULDING | P10 State: MS | P11 Zip Code: 39348

(●) Valid ( ) Suspended - DUI (●) No License ( ) Learner Permit ( ) Expired ( ) Improper DL ( ) Suspended ( ) Other

(●) Y ( ) N ( ) P | 1 22975 | 2 22976 | 1 63.1.5 | 2 63.15.4

( ) Not Transported ( ) Police ( ) Hence (●) EMS ( ) Private Vehicle | P17 EMS Agency Code 0160 | P18 Medical Facility Code 0153

(●) No Defects Apparent ( ) Unknown ( ) Hit and Run ( ) Drinking - Not Impaired ( ) Drinking - Impaired ( ) Fell Asleep/Fainted/Fatigue ( ) Obviously Intoxicated ( ) Physical Impairment ( ) Affected by Exhaust Fumes ( ) Using Drugs - Impaired ( ) Using Drugs - Not Impaired ( ) Pending Lab Results

( ) Unknown ( ) Entering/Crossing Roadway ( ) Walking/running/playing/cycling ( ) Working ( ) Pushing vehicle ( ) Approaching/leaving vehicle ( ) Playing/working on vehicle ( ) Standing

( ) No Apparent Improper Driving ( ) Failed to Yield Right of Way ( ) Following Too Closely ( ) Speed Too Fast For Conditions ( ) Driving Under The Influence ( ) Animal on Roadway ( ) Faulty Equipment ( ) Exceeded Lawful Speed ( ) Improper Passing/Overtaking ( ) Made Improper Turn ( ) Left of Center ( ) Failure to keep proper lane/Run off road ( ) Avoidance ( ) Drove on Wrong Side of Road ( ) Fatigued/Asleep ( ) Illegally Crossing Median ( ) Improper Lane Change ( ) Lying and/or Illegally in roadway ( ) Not Visible (Dark Clothing) ( ) Operating Defective Equipment ( ) Passed Stop Sign ( ) Pedestrian Actions ( ) Ran Red Light ( ) Roadway Defects ( ) Visibility Obstructed ( ) Improper Backing (●) See Crash Description

(●) Shoulder & Lap Belt ( ) None ( ) Lap Belt ( ) Automated Restraint ( ) Shoulder Belt ( ) Child Safety Seat ( ) Helmet

(●) None ( ) Complaint of Pain ( ) Moderate ( ) Life Threatening ( ) Killed

(●) Not ( ) Partially ( ) Totally

Extricated (●) N ( ) Y

( ) M (●) F

( ) White ( ) Hispanic (●) Black ( ) Other

(●) Left ( ) Center ( ) Right

( ) Deployed - Front ( ) Deployed - Side (●) Deployed - Both ( ) Not Deployed ( ) No Airbag

(●) None ( ) Blood ( ) Breath ( ) Serum ( ) Urine

( ) None given ( ) Test refused ( ) Test given ( ) Test given, pending

(●) None ( ) Blood ( ) Serum ( ) Urine

(●) None given ( ) Test refused ( ) Test given, pending ( ) Test given

O0 Vehicle# 01 | O1 First Name: KENNETH | M: A | Last Name: MCKENZIE

O2 Address Same as Person# 01 | O3 Address: 1597 COUNTY RD 39

O4 City: PAULDING | O5 State: MS | Unborn Child ( )

( ) Front-Driver ( ) Front-Middle (●) Front-right ( ) 2nd-left ( ) 2nd-middle ( ) 2nd-right ( ) 3rd-left ( ) 3rd-middle ( ) 3rd-right ( ) Sleeper of Truck Cab ( ) Encl. Pass./Cargo Area ( ) Unencl. Pass./Cargo Area ( ) Riding on Exterior ( ) Towed Vhcl./Trailer

(●) Shoulder and Lap Belt ( ) None ( ) Lap Belt ( ) Automated Restraint ( ) Shoulder Belt ( ) Child Safety Seat ( ) Helmet

( ) M (●) F | ( ) White ( ) Hispanic (●) Black ( ) Other | 32 | ( ) M (●) Y | (●) N ( ) Y | (●) Not ( ) Partially ( ) Totally

( ) None ( ) Complaint of Pain (●) Moderate ( ) Life Threatening ( ) Killed

( ) Deployed - Front ( ) Deployed - Side (●) Deployed - Both ( ) Not Deployed ( ) No Airbag

( ) Not Transported (●) EMS ( ) Police ( ) Private Vehicle ( ) Hence | O16. EMS Agency Code 0160 | O17. Medical Facility Code 0153

O0 Vehicle# | O1 First Name | M | Last Name

O2 Address Same as Person# | O3 Address

O4 City | O5 State | Unborn Child ( )

( ) Front-Driver ( ) Front-Middle ( ) Front-right ( ) 2nd-left ( ) 2nd-middle ( ) 2nd-right ( ) 3rd-left ( ) 3rd-middle ( ) 3rd-right ( ) Sleeper of Truck Cab ( ) Encl. Pass./Cargo Area ( ) Unencl. Pass./Cargo Area ( ) Riding on Exterior ( ) Towed Vhcl./Trailer

( ) Shoulder and Lap Belt ( ) None ( ) Lap Belt ( ) Automated Restraint ( ) Shoulder Belt ( ) Child Safety Seat ( ) Helmet

( ) M ( ) F | ( ) White ( ) Hispanic ( ) Black ( ) Other | ( ) M ( ) Y | ( ) N ( ) Y | ( ) Not ( ) Partially ( ) Totally

( ) None ( ) Complaint of Pain ( ) Moderate ( ) Life Threatening ( ) Killed

( ) Deployed - Front ( ) Deployed - Side ( ) Deployed - Both ( ) Not Deployed ( ) No Airbag

5899010293

( ) Not Transported ( ) EMS ( ) Police ( ) Private Vehicle ( ) Hence | O16 EMS Agency Code | O17. Medical Facility Code

032

MUCR Vehicle

V0. Vehicle: 01 | V1. Total Occupants: 02 | Agency Number: 3402 | Agency Case Number: 2010011167 | Page 04 of 07

V2. State: MS | V3. Year: 2010 | V4. License Plate Number: JAE 008

V5. Make: NISSAN | V6. Model Year: 2002

V7. Vehicle Model: ALTIMA | V8. Vehicle Color: WHIT

V9. Damage: Heavy ○ Light ○ None | V10. Speed Zone: 45 | V11. Est. Speed: 45

V34. VIN:

Owner Information

Same as Driver ☒

V12. Owner Name: SHINA G MCKENZIE

V13. Address: 1597 COUNTY RD 39

V14. City: PAULDING | V15. State: MS | V16. Zip Code: 39348

V18. No Proof of Insurance ☒ | V17. Insurance Company Name: | V18. Policy Number:

V20. Sequence of Events

Collision w/ Person, Vehicle/Non-fixed Object (1 2 3 4)	Non-Collision (1 2 3 4)	Collision w/ Fixed Object (1 2 3 4)
Animal	Cargo Loss/Shift	Attenuator/Cushion
Bicyclist	Crossover	Bridge Structure
Maintenance Equip	Equipment Failure	Culvert
Moving Vehicle	Fell/Jump from Vehicle	Curb
Parked Vehicle	Fire/Explosion	Ditch
Pedestrian	Immersion	Embankment
Train	Jackknife	Fence
Slowing Vehicle	Median/Centerline	Guardrail
Stopped Vehicle in Road	Thrown/Falling Object	Mailbox
Other Moveable Object	Off roadway/Left	Median Barrier
	Off roadway/Right	Post/Pole/Support
	Overturn/Rollover	Tree
	Unit Separation	Other Fixed Object
	Over Correcting/Steering	
	Downhill runaway	

V20. State Property

Vehicle Damaged/Destroyed State Property? ○ Y ● N

V21. Vehicle Action

● Going Straight ○ Making Left Turn ○ Stopped ○ Slow/Stop in Road ○ Parked ○ Backing ○ Making Right Turn ○ Avoidance ○ Lane Change ○ Leaving Parking ○ Overtaking/Passing ○ Parking Position ○ Making U Turn ○ In Tow

V22. Vehicle Type

● Passenger Car ○ Pickup Truck ○ Van/Stationwagon ○ SUV ○ Motorcycle ○ RV ○ Bus ○ Commercial Vehicle ○ Farm Tractor ○ Train ○ Vehicle Towing Trailer ○ Emergency Vehicle ○ ATV ○ Farm Equipment ○ Other ○ Unknown Truck

V26. Bus Use

○ School (Public/Private) ○ Charter ○ Transit ○ Intercity ○ Other ○ Not Reported/Unknown ○ Not a Bus

V23. Initial Contact

● ○ ○ ○ ○ ○ ○ ○ Under ○ Overturn ○ None ○ Other

V24. Direction of Travel

N, NE, E, SE, S, SW, W, NW

V25. Bikeway Type

● None ○ Right only ○ Left Only ○ Both Sides ○ Separate ○ Signed

V16. Traffic Control Device

○ Channel-Painted ○ Channel-Physical ○ Flag Person ○ Flashing Signal Red ○ Flashing Signal Yellow ○ No Passing ● None ○ Officer ○ RR Flashing Signal ○ RR Signal & Gate ○ Signal ○ Stop Sign ○ Railroad Sign ○ Yield Sign

V27. Device Functioning? ○ Y ○ N

V28. Road Character

○ Straight/Level ● Intersect two roads ○ Straight/Grade ○ Curve/Level ○ Straight/Hillcrest ○ Curve/Grade ○ Bridge ○ Private Drive ○ Curve/Hillcrest ○ Crossover ○ Begin/End Divided Road ○ One-Way

V29. Road Design

○ 2 Lane ● 4+ ○ Parking Lot ○ 1 Lane ○ 3 Lane ○ Frontage/Ramp ○ One Way ○ Unpaved

V30. Divided? ● Yes ○ No

V31. Center Turn Lane? ● Yes ○ No

V32. Road Surface Type

● Asphalt ○ Concrete ○ Dirt ○ Gravel ○ Other - See Narrative

V33. Towed? ● Yes ○ No | V33a. Due to Disabling Damage?: ● Yes ○ No | V34. Authority: ○ Owner ● Police ○ Other | V35. Towed By: DONALD TOWING

Commercial Vehicle

C1. Carrier ID Number: | C2. Authority: ○ US DOT ○ State ○ Mexico ○ MC ○ Canada

C3. Carrier Name:

C4. Carrier Address:

C5. City: | C6. State: | C7. Zip Code:

C13. Vehicle Configuration

○ Passenger Car (only if has HM Placard) ○ Light Truck (only if has HM Placard) ○ Bus (seats 9-15 incl. driver) ○ Bus (seats 16 or more, incl. driver) ○ Single-Unit Truck (2 axles, 6 tires) ○ Single-Unit Truck (3 or more axles) ○ Unclassified (not listed above) ○ N/A (does meet any above codes usually non-hazmat; < 10,000 GCWR or bus with less than 9 seats) ○ Truck/Trailer(s) (Single-Unit Truck with Trailer(s)) ○ Truck/Tractor (Bobtail) ○ Truck/Semi-Trailer(one trailer) ○ Tractor/Doubles(two trailers) ○ Tractor/Triples (three trailers) ○ Other Heavy Truck (> 10,000 lbs)

C8. GVWR/GCWR: ○ 10,000 lbs or less ○ 10,001 lbs to 26,000 lbs ○ Greater than 26,000 lbs

C9. Cargo Body Type

○ Auto transporter ○ Bus (seats 9-15 incl. driver) ○ Bus (seats 16 or >, incl. driver) ○ Vehicle Towing Motor Vehicle ○ Van/enclosed box ○ Passenger Vehicle ○ Cargo tank ○ Flatbed ○ Garbage/refuse ○ Grain/chips/gravel ○ Intermodal ○ Concrete Mixer ○ Pole ○ Log ○ Dump ○ Other ○ None

C14. Carrier Types: ○ Intrastate ○ Interstate ○ Not in Commerce - Other Truck or Bus ○ Not in Commerce - Government ○ Other Operations/Not Specified

C10. Commodity Hauled:

C11. Placard ID: | C12. HAZMAT Released ○ Yes ○ No

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MUCR Vehicle

V0. Vehicle: 02 | V1. Total Occupants: 01 | Agency Number: 3402 | Agency Case Number: 20100011167 | Page 06 of 07

V2. State: MS | V3. Year: 2010 | V4. License Plate Number: G44882

V5. Make: FORD | V6. Model Year: 2008

V7. Vehicle Model: CROWN VIC | V8. Vehicle Color: WHIT

V9. Damage: ● Heavy ○ Light ○ None | V10. Speed Zone: 45 | V11. Est. Speed: 03

V36. VIN:

Owner Information

Same as Driver ☐

V12. Owner Name: CITY OF LAUREL

V13. Address: 317 SOUTH MAGNOLIA STREET

V14. City: LAUREL | V15. State: MS | V16. Zip Code: 39440

V18. No Proof of Insurance ☐ | V17. Insurance Company Name: CITY INS | V19. Policy Number: MMSC0139

V20. Sequence of Events

Collision w/ Person, Vehicle/Non-fixed Object (1 2 3 4): Animal; Bicyclist; Maintenance Equip.; ● (1) Moving Vehicle; Parked Vehicle; Pedestrian; Train; Slowing Vehicle; Stopped Vehicle in Road; Other Moveable Object

Non-Collision (1 2 3 4): Cargo Loss/Shift; Crossover; Equipment Failure; Fell/Jump from Vehicle; Fire/Explosion; Immersion; Jackknife; Median/Centerline; Thrown/Falling Object; Off roadway/Left; Off roadway/Right; Overturn/Rollover; Unit Separation; Over Correcting/Steering; Downhill runaway

Collision w/ Fixed Object (1 2 3 4): Attenuator/Cushion; Bridge Structure; Culvert; Curb; Ditch; Embankment; Fence; Guardrail; Mailbox; Median Barrier; Post/Pole/Support; Tree; Other Fixed Object

V20b. State Property: Vehicle Damaged/Destroyed State Property? ● Y ○ N

V21. Vehicle Action: ○ Going Straight ○ Avoidance ● Making Left Turn ○ Lane Change ○ Stopped ○ Leaving Parking ○ Slow/Stop in Road ○ Overtaking/Passing ○ Parked ○ Parking Position ○ Backing ○ Making U Turn ○ Making Right Turn ○ In Tow

V22. Vehicle Type: ● Passenger Car ○ Farm Tractor ○ Pickup Truck ○ Train ○ Van/Stationwagon ○ Vehicle Towing Trailer ○ SUV ○ Emergency Vehicle ○ Motorcycle ○ ATV ○ RV ○ Farm Equipment ○ Bus ○ Other ○ Commercial Vehicle ○ Unknown Truck

V16. Bus Use: ○ School (Public/Private) ○ Charter ○ Transit ○ Intercity ○ Other ○ Not Reported/Unknown ○ Not a Bus

V23. Initial Contact: ● (front left) ○ Under ○ Overturn ○ None ○ Other

V24. Direction of Travel: N, NE, E, SE (marked), S, SW, W, NW

V25. Divided Highway Type: ● None ○ Right only ○ Left Only ○ Both Sides ○ Separate ○ Signed

V26. Traffic Control Device: ○ Channel-Painted ○ Officer ○ Channel-Physical ○ RR Flashing Signal ○ Flag Person ○ RR Signal & Gate ○ Flashing Signal Red ○ Signal ○ Flashing Signal Yellow ○ Stop Sign ○ No Passing ○ Railroad Sign ● None ○ Yield Sign

V27. Device Functioning? ○ Y ○ N

V28. Road Character: ○ Straight/Level ○ Bridge ● Intersect two roads ○ Private Drive ○ Straight/Grade ○ Curve/Hillcrest ○ Curve/Level ○ Crossover ○ Straight/Hillcrest ○ Begin/End Divided Road ○ Curve/Grade ○ One-Way

V29. Road Design: ○ 2 Lane ○ 3 Lane ● 4+ ○ Frontage/Ramp ○ Parking Lot ○ One Way ○ 1 Lane ○ Unpaved

V30. Divided? ● Yes ○ No

V31. Center Turn Lane? ○ Yes ● No

V32. Road Surface Type: ● Asphalt ○ Concrete ○ Dirt ○ Gravel ○ Other - See Narrative

V33. Towed? ● Yes ○ No | V33a. Due to Disabling Damage? ● Yes ○ No | V34. Authority: ● Owner ○ Police ○ Other | V35. Towed By: SRT

Commercial Vehicle

C1. Carrier ID Number:

C2. Authority: ○ US DOT ○ State ○ Mexico ○ MC ○ Canada

C3. Carrier Name:

C4. Carrier Address:

C5. City | C6. State | C7. Zip Code

C13. Vehicle Configuration: ○ Passenger Car (only if has HM Placard) ○ Truck/Trailer(s) (Single-Unit Truck with Trailer(s)) ○ Light Truck (only if has HM Placard) ○ Truck/Tractor (Bobtail) ○ Bus (seats 9-15 incl. driver) ○ Truck/Semi-Trailer(one trailer) ○ Bus (seats 16 or more, incl. driver) ○ Tractor/Doubles(two trailers) ○ Single-Unit Truck (2 axles, 6 tires) ○ Tractor/Triples (three trailers) ○ Single-Unit Truck (3 or more axles) ○ Other Heavy Truck (> 10,000 lbs) ○ Unclassified (not listed above) ○ N/A (does meet any above codes usually non-hazmal, < 10,000 GCWR or bus with less than 9 seats)

C8. GVWR/GCWR: ○ 10,000 lbs or less ○ 10,001 lbs to 26,000 lbs ○ Greater than 26,000 lbs

C9. Cargo Body Type: ○ Auto transporter ○ Cargo tank ○ Pole ○ Bus (seats 9-15 incl. driver) ○ Flatbed ○ Log ○ Bus (seats 16 or >, incl driver) ○ Garbage/refuse ○ Dump ○ Vehicle Towing Motor Vehicle ○ Grain/chips/gravel ○ Other ○ Van/enclosed box ○ Intermodal ○ None ○ Passenger Vehicle ○ Concrete Mixer

C14. Carrier Types: ○ Intrastate ○ Interstate ○ Not in Commerce - Other Truck or Bus ○ Not in Commerce - Government ○ Other Operations/Not Specified

C10. Commodity Hauled:

C11. Placard ID: | C12. HAZMAT Released ○ Yes ○ No

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STATE OF MISSISSIPPI
ADDITIONAL WITNESSES

Agency Number: 3402 Agency Case Number: 2010011167 Page 07 of 07

WITNESS(ES)

W1. First Name: BRANTLEY MI: Last Name: BAZOR	W1. First Name: JOSHUA MI: Last Name: GRANTHAM
W2. Address: 136 BIG CREEK RD W3. Phone Number: 6014090491	W2. Address: 679 CAMP 8 RD 6013943672
W4. City: WAYNESBORO W5. State: MS W6. Zip Code: 39367	W4. City: RICHTON W5. State: MS W6. Zip Code: 39476
W7. Sex: ● M ○ F W8. Age: 44	W7. Sex: ● M ○ F W8. Age: 35

WITNESS(ES)

W1. First Name: BARBARA MI: Last Name: LASTER	W1. First Name: MI: Last Name:
W2. Address: P.O BOX 892 6016700242	W2. Address:
W4. City: BAY SPRINGS W5. State: MS W6. Zip Code: 39422	W4. City: W5. State: W6. Zip Code:
W7. Sex: ○ M ● F W8. Age: 46	W7. Sex: ○ M ○ F W8. Age:

WITNESS(ES)

W1. First Name: MI: Last Name:	W1. First Name: MI: Last Name:
W2. Address:	W2. Address:
W4. City: W5. State: W6. Zip Code:	W4. City: W5. State: W6. Zip Code:
W7. Sex: ○ M ○ F W8. Age:	W7. Sex: ○ M ○ F W8. Age:

WITNESS(ES)

W1. First Name: MI: Last Name:	W1. First Name: MI: Last Name:
W2. Address:	W2. Address:
W4. City: W5. State: W6. Zip Code:	W4. City: W5. State: W6. Zip Code:
W7. Sex: ○ M ○ F W8. Age:	W7. Sex: ○ M ○ F W8. Age:

WITNESS(ES)

W1. First Name: MI: Last Name:	W1. First Name: MI: Last Name:
W2. Address:	W2. Address:
W4. City: W5. State: W6. Zip Code:	W4. City: W5. State: W6. Zip Code:
W7. Sex: ○ M ○ F W8. Age:	W7. Sex: ○ M ○ F W8. Age:

035

JONES LAW FIRM, P. A.
ATTORNEYS AT LAW

5912 U. S. Hwy 49, Suite H-5
Hattiesburg, MS 39401
Post Office Box 1554
Hattiesburg MS 39403

Phone: (601) 582-9177
Fax:: (601) 582-5340

April 29, 2010

VIA CERTIFIED MAIL, RETURN RECEIPT REQUESTED

M.C.A. Section 11-46-11 Notice of Claim

City of Laurel
Attn: Mary Ann Hess
City Clerk
P.O. Box 647
Laurel, Mississippi

Re: Kenneth McKenzie vs. City of Laurel, ABC, DEF, and GHI
Date of Accident: April 22, 2010

Dear Ms. Hess:

Pursuant to Section 11-46-11(1) and (2) of the Mississippi Code of 1972, as amended, this is to advise that I am representing Kenneth McKenzie of 1597 C.R. 39, Paulding, Mississippi 39348, Jones County, Mississippi, with reference to his claim against the City of Laurel, ABC, DEF, and GHI for personal injuries commencing on or about April 22, 2010. The facts surrounding the claim of Kenneth McKenzie are as follows:

On April 22, 2010 at approximately 10:14 a.m., Kenneth McKenzie was a passenger in a vehicle driven by Shina McKenzie. They were traveling North on 16th Avenue in the City of Laurel, Mississippi. Officer Christopher Thompson was traveling South on 16th Avenue. Officer Thompson negligently and recklessly without regard for the safety of others turned in front of the vehicle driven by Shina McKenzie causing the vehicle to collide. Kenneth McKenzie sustained severe injuries as a result of said collision.

The extent of Kenneth McKenzie's injuries are as follows:

(1) Fractured Hip;
(2) Left leg Broken;
(3) Injuries to his back, neck, and legs;
(4) Injuries to the scalp, face and jaw;
(5) Multiple bruises, contusions,, and cuts to the head, face, arms, legs, back, neck and shoulders;
(6) Physical and mental pain, anguish, and discomfort.

The basis of the claim of Kenneth McKenzie against the City of Laurel, ABC, DEF, and GHI, is as follows:

That Officer Christopher Thompson, an employee with the City of Laurel, negligently and recklessly caused the accident that occurred on April 22, 2010 and the City of Laurel failed to properly train said officer.

Kenneth McKenzie is seeking to recover damages from the City of Laurel, ABC, DEF, and GHI in the amount of $500,000.00

Sincerely,

Vanessa J. Jones

VANESSA J. JONES
Attorney At Law

VJJ/s

JONES LAW FIRM, P. A.
ATTORNEYS AT LAW

5912 U. S. Hwy 49, Suite H-5
Hattiesburg, MS 39401
Post Office Box 1554
Hattiesburg MS 39403

Phone: (601) 582-9177
Fax:: (601) 582-5340

June 9, 2010

Mississippi Municipal Service Co. Inc.
Attn: Ms. Mary Quinn
600 East Amite #200
Jackson, MS 39201

JUN 11 2010
MS MUNICIPAL SERVICE COMPANY

Re: Kenneth McKenzie and Shina McKenzie
Case no. VA2010074871

Dear Ms. Quinn:

Please be advised that I am in receipt of your letter regarding payment of 10% the damage to Mr. McKenzie vehicle. My client has advised me to reject the same. Mr. McKenzie is treating for his injuries. After he is released, we will proceed with further legal action.

Thank you for your prompt attention in this matter. If you have additional questions or concerns, feel free to give me a call.

Sincerely,

VANESSA J. JONES
Attorney At Law

VJJ
jw

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MISSISSIPPI MUNICIPAL SERVICE COMPANY
MISSISSIPPI MUNICIPAL WORKERS' COMPENSATION GROUP
MISSISSIPPI MUNICIPAL LIABILITY PLAN

July 7, 2010

Attorney Vanessa Jones
Jones Law Firm, P. A.
P. O. Box 1554
Hattiesburg, MS 39403

Re:		
	Claim Number:	VA2010074871
	Member:	City of Laurel
	Claimant:	Shina McKenzie and Kenneth McKenzie
	D/L:	April 22, 2010

Dear Ms. Jones:

The Mississippi Municipal Service Company investigates and handles claims brought against members of the Mississippi Municipal Liability Plan (MMLP).

The Mississippi Code of 1972, Sec. 11-46-9 states that a government entity and its employees acting within the course and scope of their employment or duties shall not be liable for any claim:

(c) Arising out of any act or omission of an employee of a governmental entity engaged in the performance or execution of duties or activities relating to the police or fire protection unless the employee acted in reckless disregard of the safety and well being of any person not engaged in criminal activity at the time of the injury.

There is no evidence of reckless disregard in this case. In an effort to resolve without litigation, we will offer $4118.75 on the property damage.

Please discuss with your client and respond to the offer on the property damage.

Sincerely,

Mary Quinn

Mary Quinn
Liability Claims Representative
Mississippi Municipal Services Company

600 EAST AMITE STREET, SUITE 200 / JACKSON, MS 39201 / 601 355-8581 / FAX 601 355-8584

MISSISSIPPI MUNICIPAL SERVICE COMPANY
MISSISSIPPI MUNICIPAL WORKERS' COMPENSATION GROUP
MISSISSIPPI MUNICIPAL LIABILITY PLAN

September 12, 2011

via fax 10-19-11
601-582-5340
w/CMS Enclosure

Ms. Vanessa Jones
Jones Law Firm, P. A.
P. O. Box 1554
Hattiesburg, MS 39403

Re:	**Member:**	**City of Laurel**
	Claim Number:	**VA2010074871**
	DOL:	**April 22, 2010**
	Claimant:	**Shina McKenzie and Kenneth McKenzie**

Dear Ms. Jones:

We have completed our review of the medical records submitted on Mr. and Mrs. McKenzie.

We are extending a settlement offer of $25,000 for Mr. McKenzie's case and an offer of $1,000 on Mrs. McKenzie.

Please discuss with your clients and provide response to our offer.

Sincerely,
Mary Quinn
Mary Quinn
Liability Claims Representative
MMSC

600 EAST AMITE STREET, SUITE 200 / JACKSON, MS 39201 / 601 355-8581 / FAX 601 355-8584

MISSISSIPPI MUNICIPAL SERVICE COMPANY
MISSISSIPPI MUNICIPAL WORKERS' COMPENSATION GROUP
MISSISSIPPI MUNICIPAL LIABILITY PLAN

December 19, 2011

Attorney Vanessa Jones
Jones Law Firm, P. A.
P. O. Box 1554
Hattiesburg, MS 39403

Via fax 601-582-5340

Re:	**Member:**	**City of Laurel**
	Claim Number:	**VA2010074871**
	DOL:	**April 22, 2010**
	Claimant:	**Shina McKenzie and Kenneth McKenzie**

Dear Ms. Jones:

We acknowledge receipt of your letter and documentation dated December 15, 2011 that was received via email.

The statute of limitations has tolled on this claim.

We have closed our claim file.

Sincerely,
Mary Quinn
Mary Quinn
Liability Claims Representative
MMSC

600 EAST AMITE STREET, SUITE 200 / JACKSON, MS 39201 / 601 355-8581 / FAX 601 355-8584

JONES LAW FIRM, P. A.
ATTORNEYS AT LAW

6088 U. S. Hwy 49
Hattiesburg, MS 39401
Post Office Box 1554
Hattiesburg MS 39403

Phone: (601) 582-9177
Fax: (601) 582-5340

August 2, 2011

(FAX: 601-355-8581)
Mississippi Municipal Service Company
Attention: Ms. Mary Quinn
600 East Amite Street, Suite 200
Jackson, MS 39201

Re:	Claimant:	Shina McKenzie and Kenneth McKenzie
	Claim No.:	VA2010074871
	Member:	City of Laurel
	D/L:	April 22, 2010

Dear Ms. Quinn:

Please be advised that my client has given me authority to accept $4118.75 for the property damage in this matter.

I will forward medicals to date and would like to proceed to resolve this matter. Thank you for your attention in this matter. If you have additional questions or concerns, feel free to give me a call.

Sincerely,

Vanessa J. Jones

VANESSA J. JONES
Attorney At Law

VJJ/s
Enclosure

AUG 05 2011

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MISSISSIPPI MUNICIPAL SERVICE COMPANY
MISSISSIPPI MUNICIPAL WORKERS' COMPENSATION GROUP
MISSISSIPPI MUNICIPAL LIABILITY PLAN

September 12, 2011

via fax 10-19-11
601-582-5340
w/CMS Enclosure

Ms. Vanessa Jones
Jones Law Firm, P. A.
P. O. Box 1554
Hattiesburg, MS 39403

Re:	**Member:**	**City of Laurel**
	Claim Number:	**VA2010074871**
	DOL:	**April 22, 2010**
	Claimant:	**Shina McKenzie and Kenneth McKenzie**

Dear Ms. Jones:

We have completed our review of the medical records submitted on Mr. and Mrs. McKenzie.

We are extending a settlement offer of $25,000 for Mr. McKenzie's case and an offer of $1,000 on Mrs. McKenzie.

Please discuss with your clients and provide response to our offer.

Sincerely,
Mary Quinn
Mary Quinn
Liability Claims Representative
MMSC

600 EAST AMITE STREET, SUITE 200 / JACKSON, MS 39201 / 601 355-8581 / FAX 601 355-8584

MISSISSIPPI MUNICIPAL SERVICE COMPANY
MISSISSIPPI MUNICIPAL WORKERS' COMPENSATION GROUP
MISSISSIPPI MUNICIPAL LIABILITY PLAN

December 19, 2011

Attorney Vanessa Jones
Jones Law Firm, P. A.
P. O. Box 1554
Hattiesburg, MS 39403

Via fax 601-582-5340

Re:	**Member:**	**City of Laurel**
	Claim Number:	**VA2010074871**
	DOL:	**April 22, 2010**
	Claimant:	**Shina McKenzie and Kenneth McKenzie**

Dear Ms. Jones:

We acknowledge receipt of your letter and documentation dated December 15, 2011 that was received via email.

The statute of limitations has tolled on this claim.

We have closed our claim file.

Sincerely,
Mary Quinn
Mary Quinn
Liability Claims Representative
MMSC

600 EAST AMITE STREET, SUITE 200 / JACKSON, MS 39201 / 601 355-8581 / FAX 601 355-8584

MISSISSIPPI MUNICIPAL SERVICE COMPANY
MISSISSIPPI MUNICIPAL WORKERS' COMPENSATION GROUP
MISSISSIPPI MUNICIPAL LIABILITY PLAN

January 5, 2012

Attorney Vanessa Jones
Jones Law Firm P. A.
P. O. Box 1554
Hattiesburg, MS 39403
Via fax 601-582-5340

Re:	**Member:**	**City of Laurel**
	Claim Number:	**VA2010074871**
	DOL:	**April 22, 2010**
	Claimant:	**Shina McKenzie and Kenneth McKenzie**

Dear Ms. Jones:

We acknowledge receipt of your email dated December 27, 2011 that was addressed to Steve Smith and Gil Israel.

It is our position that the statute of limitations has tolled on this claim.

The allegations of bad faith are expressly denied.

In an effort to avoid litigation on this claim, we are making a one-time settlement offer of $10,000 (Ten Thousand dollars) to resolve the claims of Shina and Kenneth McKenzie.

This offer will remain on the table until the close of the business day on Monday January 9, 2012. Should you decide to accept this offer, please communicate that acceptance in writing.

This offer does not, nor is it intended to, waive the statute of limitations.

Sincerely,
Mary Quinn
Mary Quinn
Liability Claims Representative

600 EAST AMITE STREET, SUITE 200 / JACKSON, MS 39201 / 601 355-8581 / FAX 601 355-8584