

02/09/21  
MP

20-1253

NO. \_\_\_\_\_

IN THE

SUPREME COURT OF THE UNITED STATES

<>

CHARLES LAVEL STRINGER,

PETITIONER

VS.

STORESONLINE INC AND CREXENDO, INC.,

RESPONDENTS

ORIGINAL

On Petition For Writ of Certiorari  
To The Supreme Court of Mississippi

FILED  
FEB 09 2021  
OFFICE OF THE CLERK  
SUPREME COURT, U.S.

<>  
PETITION FOR A WRIT OF CERTIORARI

HON.CHARLES LAVEL STRINGER  
LEGAL ASSISTANT/PARALEGAL  
136 KIMBROUGH DRIVE  
JACKSON, MS 39204  
(601)-373-3656

QUESTIONS PRESENTED FOR REVIEW

1

DID THE MISSISSIPPI SUPRME COURT BREAK STATE LAW  
WHEN IT WOULD NOT APPLY THE MANDATORY  
LANGUAGE IN THE USE OF THE WORD OF SHALL IN  
MISSISSIPPI CODE OF ANN & 11-1-17 IN VIOLATION OF  
28 U.S.C.A. & 1654, IN VIOLATION OF PRO SE PETITIONER  
FIRST, SIXTH AND FOURTEENTH AMEND OF THE  
UNITED STATES CONSTITUTION.

2

THE CHANCERY COURT DENIED THE APPELLANT/  
PLAINTIFF THE RIGHT TO REPRESENT HIMSELF IN  
CIVIL ACTION AND TO BE TREATED THE SAME  
OTHER APPELLANT/PLAINTIFF WHO HAVE COME  
BEFORE THE CHANCERY COURT OM DEFAULT  
JUDGMENT IN VIOLATION OF 28 & U.S.C.A. & 1654.  
AND IN VIOLATION OF THE SIX AND FOURTEENTH  
AMENDMENT OF THE UNITED STATES  
CONSTITUTION.

3

THE CHANCERY COURT ERRED CITING BAKER & McENZIE  
LLP V. EVENS, 123 So. 3d 387 IS NOT ONE DIGEST KEY  
IN THAT CASE THAT ADDRESS A RULE 12(f) MOTION AND  
IT STATES COMPLAINTS FILED IN OTHER STATES UNDER  
DIFFERENT LEGAL CLAIMS NOT COLLATERAL ESTOPPEL.

4

THE CHANCERY COURT JUDGE ERRED IN  
NOT GRANTING PLAINTIFF MOTION TO STRIKE  
ANSWER AND AFFIRMATIVE DEFENDSES UNDER  
MRCP. 12(f).

THE CHANCERY COURT JUDGE ERRED IN NOT  
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Appendix "C" is the Order of Recusal of Chancery Judge Patricia D. Wise, dated March 23<sup>rd</sup>, 2016.

Appendix "D" is the Order by Mississippi Supreme Court of Mississippi, dated August 29<sup>th</sup>, 2018.

Appendix "E" is the Order of the Court, on Amended Motion to Alter or Amend Judgment, dated November 7<sup>th</sup>, 2017, signed by Chancery Judge Dewayne Thomas.

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## PETITION FOR A WRIT OF CERTIORARI

Petitioner Charles L. Stringer prays that a writ of certiorari be issued to review the judgment and Order of the Mississippi Supreme Court for violating State Law and completely not addressing the issues raised on appeal that being by not applying the case law and state statute cited and rules of civil procedure cited by petitioner in his brief. Which is a violation of petitioner right under the First, sixth and Fourteenth Amendment of United States Constitution.

## OPINION BELOW

A copy of the Mississippi Supreme Court Order Appendix "A". The Order Dismissing Petitioner Petition for Rehearing. A copy of the Mississippi Supreme Court Order dismissing the Petitioner Appellant Brief is attached as Appendix "B". The September 1<sup>st</sup>, 2016 is the Chancery Judge Dewayne Thomas Order of dismissal and is attached as Appendix "C". The September 13<sup>th</sup>, 2016, denying Motion to Alter or Amend is attached as Appendix "D". That the November 7<sup>th</sup>, 2017 Order by Judge Dewayne Thomas denying Petitioner Amended Alter or Amend Judgment as Appendix "E". That the April 25<sup>th</sup>, 2019, Order by Judge Dewayne Thomas denying Second Amended Alter or Amend Judgment is attached as Appendix "F".

## JURISDICTION

The Mississippi Supreme Court Order No. 2019-CP-01361, filed with the clerk on June 12<sup>th</sup>, 2020. The Mississippi Court Order denying Petition for rehearing No. 2019-CP-01362, on September 24<sup>th</sup>, 2020. The Court jurisdiction is invoked under Title 28 U.S.C. & 1254(1).

1

## CONSTITUTIONAL AND STATUTORY

1

PROCISIONS INVOLVED  
Amendment One of the United States  
Constitution.  
Amendment Four of the United States  
Constitution.  
Amendment Six of the United States Constitution.  
Amendment Fourteen United States Constitution.  
28 U.S.C.A. & 1654  
Mississippi Code Ann. & 11-1-17.

#### STATEMENT OF THE CASE

That on November 12<sup>th</sup>, 2015, the Appellant/Plaintiff filed a civil action for Fraud and Unjust Enrichment in the Chancery Court of the First Judicial District of Hinds County, Mississippi. That also on that same day November 12<sup>th</sup>, 2015, Appellant/Plaintiff filed a copy summons, pursuant to Rule 4@(3) of the Mississippi Rules of Civil Procedure. That on January 5<sup>th</sup>, 2016, Appellant/Plaintiff filed Request for Default Judgment, Affidavit for Default Judgment, and Affidavit as to Military Service. That on January 6<sup>th</sup>, 2016, the defendants counsel issued a Notice of Appearance by Attorney Christopher Weldy. On January 12<sup>th</sup>, 2016, the Appellant/Plaintiff files his first Motion for Permanent Injunction. Again, on January 12<sup>th</sup>, 2016, the Appellant/Plaintiff files his Second Motion for Permanent Injunction. That on February 2<sup>nd</sup>, 2016, the Appellant/Plaintiff files his First Notice of a Hearing, before Chancery Judge Patricia D. Wise, on March 23<sup>rd</sup>, 2016. That the defendants counsel on March 11<sup>th</sup>, 2016 files Answer to Complaint, and a Motion to Dismiss and a Notice of Hearing, set at the same time and date as the Appellant/Plaintiff Notice of Hearing. That on March 17<sup>th</sup>, 2016, Appellant/Plaintiff file his Response to Defendants

Motion to Dismiss. That on March 23<sup>rd</sup>, 2016, After Appellant/Plaintiff hearing before Chancery Judge Patricia D. Wise, she issued a Order of Recusal. On April 19<sup>th</sup>, 2016, Appellant/Plaintiff files his Motion to Strike Motion to Dismiss and his Motion to Strike Answer and Affirmative Defenses. On May 5<sup>th</sup>, 2016, the Appellant files his second Notice of a Hearing before Chancery Judge Dewayne Thomas, on June 1<sup>st</sup>, 2016, on his two motions for Permanent Injunction. On May 10<sup>th</sup>, 2016, the defendants counsel files his Second Notice of a Hearing, set at the same date and time as the Appellant/Plaintiff hearing. On June 1<sup>st</sup>, 2016, the Appellant/Plaintiff file his motion for Demand for Judgment. On June 21<sup>st</sup>, 2016 Appellant/Plaintiff, files his Statement of Facts, as request by Chancery Judge Dewayne Thomas on June 1<sup>st</sup>, 2016. On September 1<sup>st</sup>, 2016, the Chancery Judge Dewayne Thomas issues his Order of Dismissal. On September 8<sup>th</sup>, 2016, Appellant/Plaintiff files his Motion to Alter or Amend Judgment. On September 13<sup>th</sup>, 2016, the Chancery Judge Dewayne Thomas issues his Order denying Motion to Alter or Amend Judgment. On September 29<sup>th</sup>, 2016, the Appellant/Plaintiff files Notice of Appeal. On October 12<sup>th</sup>, 2016, Notice of Appeal file with the Supreme Court clerk. On October 12<sup>th</sup>, 2016, Final Judgment filed with the Supreme Court Clerk. On October 12<sup>th</sup>, 2016, Trial Court Order received and filed with the Supreme Court Clerk. On October 12<sup>th</sup>, 2016, Appearance Form Issued for Attorney Christopher Jackson Weldy. On October 17<sup>th</sup>, 2016, Appearance Form received Christopher Jackson Weldy. On October 24<sup>th</sup>, 2016, Deficiency Notice letter Charles Lavel Stringer. On October 27<sup>th</sup>, 2016, Motion to Instruct the Chancery Court to address the Facts. On October 27<sup>th</sup>, 2016 Motion to Instruct Counsel to address the Facts. On November 3<sup>rd</sup>, 2016, the Appellant/Plaintiff files Certificate of Compliance under Rule 11(B)(1). On November 3<sup>rd</sup>,

2016, Court Reporter Transcript due date issued. November 15<sup>th</sup>, 2016, Order Entered on Motion. On December 27<sup>th</sup>, 2016, Transcript, Certificate of Compliance under Rule 11(D)(2) and Certificate of the Clerk are filed. On January 5<sup>th</sup>, 2017, Motion to Correct Transcripts is filed with the Supreme Court clerk. On January 27<sup>th</sup>, 2017, Order Entered on Motion. On January 31<sup>st</sup>, 2017, Record filed. On January 31<sup>st</sup>, 2017, Briefing Schedule Notice Letter. On February 7<sup>th</sup>, 2017, Motion for enlargement of time to File Appellant Brief. On February 7<sup>th</sup>, clerk Notice Issued on Motion. On February 7<sup>th</sup>, 2017, Motion for Clerk Request transmission All Document and Transcripts. On March 14<sup>th</sup>, 2017, Order entered on Motion. On March 24<sup>th</sup>, 2017, Appellant's Brief file on behalf of Charles Lavel Stringer. On March 24<sup>th</sup>, 2017, Record Excerpts filed on behalf of Charles Lavel Stringer. On March 24<sup>th</sup>, 2017, Brief Notification Letter. On March 24<sup>th</sup>, 2017, Brief No-Compliance Letter, Charles Stringer. On April 3<sup>rd</sup>, 2017, Motion to Dismiss Appeal. On April 5<sup>th</sup>, 2017, Response to Motion to Dismiss Appeal and Motion to Strake. On April 20<sup>th</sup>, 2017, Motion for Stay and Enlargement of Time to Appellee Brief. On May 2<sup>nd</sup>, 2017, Order Entered Granting Motion to Stay and Enlargement of Time to File Appellee Brief (Some 12 days after Appellee's Brief was due!) On August 22<sup>nd</sup>, 2017, some one hundred and fifty days after Appellant Brief Justice Jess H. Dickinson Dismisses Appeal and denies Appellant Motion to Strake Motion to Dismiss. On October 5<sup>th</sup>, the Appellant/Plaintiff pro se files Amended Motion to Alter or Amend Judgment. On October 6<sup>th</sup>, 2017, Appellees/Defendant counsel files his Response to Amended Motion to Alter or amend Judgment. On October 12<sup>th</sup>, 2017, the Appellant/Plaintiff pro se filed his Reply to Alter or Amend Judgment, stating that the Chancery Judge Dewayne Thomas had failed to use the

word Final in his final order denying his first Motion to Alter or Amend Judgment. On November 7<sup>th</sup>, 2017, the Chancery Judge Dewayne Thomas issue a Order denying Appellant Amended Motion to Alter or Amend Judgment without ever addressing his not using the word Final his first order and in his second, Order. On November 30<sup>th</sup>, 2017, the Appellant/Plaintiff filed his Second Notice of Appeal. On February 8<sup>th</sup>, 2018, the Appellant filed his second Motion of Facts of the Trial Court., requesting that this Court issue a Order to the Chancery Court to address the fact he did not address the issue of him not using the word final in his First and Second Order denying Motion to Alter or Amend Judgment. On March 15<sup>th</sup>, a panel Kitchen, P.J.Beam and Isshee, JJ issued a Order denying Appellant Motion of Facts of the Trial Court, dealing with the Chancery Court Judge Dewayne Thomas not using the word final in his Order denying Amended Motion to Alter or Amend Judgment. On May 3<sup>rd</sup>, 2018, the Appellant filed his Second Appellant brief. On May 31<sup>st</sup>, 2018, Appellees/Defendants counsel filed his Second Motion to Dismiss Appeal. On June 4<sup>th</sup>, 2018, the Appellant/Plaintiff files his Response to Second Motion to Dismiss Appeal. On August 29<sup>th</sup>, 2018, docketed by clerk office on August 30<sup>th</sup>, 2018, a panel of Kitchens, P.J. King and Maxwell, JJ issue a Order dismissing Appeal alleging that it is a interlocutor and never addressed the Appellant response claim that it was filed under Mississippi Code of Ann & 11-1-17, without having to use the word final. On August 29<sup>th</sup>, 2018, docketed by clerk office on August 30<sup>th</sup>, 2018, a panel of Kitchens, P.J. King and Maxwell, JJ issue a Order dismissing Appeal alleging that it is a interlocutor appeal and never addressed the Appellant response claim that it was filed under Mississippi Code of Ann & 11-1-17, without having to address Appellant response claim that it was filed under Mississippi Code of Ann & 11-1-17, without having

to use the word final. On September 4<sup>th</sup>, 2018, the Petitioner filed his Petition for Rehearing in the Mississippi Supreme Court. That on November 14<sup>th</sup>, 2018, the Mississippi Supreme Court denied Petitioner Petition for Rehearing. That on January 23<sup>rd</sup>, 2019, the Petitioner filed his First Petition for Writ of Certiorari with this Court. That on April 15<sup>th</sup>, 2019, this Court denied Petitioner first Petition for Writ of Certiorari. That on April 23<sup>rd</sup>, 2019, Petitioner filed his Second Motion to Alter or Amend Judgment, with the Chancery Court, that was docked that by the clerk that same day. That on April 25<sup>th</sup>, Judge Dewayne Thomas signs Order denying Plaintiff Second Amended Motion to Alter or Amend Judgment, which was docked by the clerk that same day. The Plaintiff/Appellant, pro se filed Third Notice of Appeal on May 21<sup>st</sup>, 2019, which was docketed that same day by the clerk office. On October 18<sup>th</sup>, 2019, Plaintiff/Appellant files his Certificate of Compliance with the Chancery clerk's office, which was not docketed until October 22<sup>nd</sup>, 2019. The Mississippi Supreme Court clerk office docketed on October 25<sup>th</sup>, 2019, Plaintiff/Appellant Certificate. On November 13<sup>th</sup>, 2019, the Mississippi Supreme Court Clerk docket's the present Trial Court Docket. November 13<sup>th</sup>, 2019, the Chancery Clerk's office issues a Statement of Cost of Appeal Certificate and latest Docket. The Mississippi Supreme Court Clerk Office Appellant Notice of Briefing Schedule Order on December 16<sup>th</sup>, 2019. On January 9<sup>th</sup>, 2020, Appellant/Plaintiff files his Motion for Enlargement of Time to file Appellant Brief. The Mississippi Supreme Court clerk office issue a Notice of January 9<sup>th</sup>, 2020 granting motion for extension of time to file Appellant Brief until February 26<sup>th</sup>, 2020. On February 24<sup>th</sup>, 2020, the Appellant Brief and Record Excerpts with the Mississippi Supreme Court. On February 24<sup>th</sup>, 2020, the Appellees counsel files his third Motion to Dismiss Appeal. That on March 3<sup>rd</sup>,

2020, the Appellant files his third response to Motion to Dismiss Appeal. On June 12<sup>th</sup>, 2020, the Mississippi Supreme Court dismisses Appeal for the third time without addressing the issues raised on appeal. On June 18<sup>th</sup>, 2020, the Plaintiff/Petitioner files his Petition for Rehearing, with the Mississippi Supreme Court. On September 24<sup>th</sup>, 2020, the Mississippi Supreme Court issues a Order denying the Petition for Rehearing.

#### REASONS FOR GRANTING THE PETITION

##### ARGUMENT 1

THE SUPREME COOURT COURT ERRED IN DISMISSING THE APPELLANT/PETITIONER APPELLANT BRIEF SEE MISS. CODE ANN & 11-1-17.

That on September 8<sup>th</sup>, 2016, the Appellant filed his Motion to Alter or Amend Judgment under M.R.C.P. 59(e)(Vol, 1., pg. 104) that is a final motion for the court to review all err before you file a notice of Appeal. That on September 13<sup>th</sup>, 2016, the Chancery Court Judge denied that motion to alter or amend judgment (Vol.1., pg.107), that is a final order and only the Supreme Court can review all legal matters in this case. Again, on October 5<sup>th</sup>, 2017, the Appellant/Plaintiff pro se file Amended Motion Alter or Amend Judgment. On November 7<sup>th</sup>, 2017, the Chancery Judge Dewayne Thomas issue a Order denying Appellant Amended to Alter or Amend Judgment without ever addressing his not using the word Final his first order and in his second Order. On April 23, 2019, files his Second Amended Motion to Alter or Amend Judgment, with Chancery Court. That on April 25<sup>th</sup>, 2019, Judge Dewayne

Thomas signs Order denying Plaintiff Second Amended Motion to Alter or Amend Judgment. See Mississippi Code Ann, & 11-1-17, Time for rendition of final decree; right of appeal where decree not entered with required time, states:

All chancellors or judges of the chancery and circuit courts of the state of Mississippi shall render their final decree on any and all matters taken under advisement by such Chancellors or judges not later than six(6) months after the Date when sane are taken under advisement or no later than Six (6) months after the date on which the chancellors or Court or judge set as a date for the final brief or memoranda of authority is required to be filed on or as to the cause taken Under advisement, which ever is the latest date after the date On which the cause or case is taken under advisement. In the Event a final decree has not been entered within the six months Period hereinbefore referred to, then any party to said law suit shall have the right to appeal on the record as otherwise provided The same as if a final decree has been rendered adversely. Said Appeal shall be to the supreme court of the State of Mississippi And shall be treated as a preferred case over other cases except Election contests.

Also see BOARD OF PARDONS V. ALLEN, 107 S. Ct. 2415, in deciding that this statute created a constitutionally protected liberty interest, the Court found significant its mandatory language the use of the word "shall" Meaning: shall have the right to appeal is mandatory. Also KINGDOMWARE TECHHOLOGIES, INC V. U.S., 136 S. Ct. 1963(2015) at 1977

Congress use the word "shall" demonstrates That & 8127(d) mandates the use of the Rule of Two in all

contracting before using competitive procedures. Unlike the word "may", which implies discretion the word "shall" usually connote a requirement. Again in ALABAMA V. BOZEMAN, 121 S. Ct. 2079(2001) at 2085. "The word shall is ordinarily the language of command."

That the Appellant has already file complaint with the Mississippi Commission on Judicial Performance and a complaint with the State Bar and a Complaint with the Mississippi Ethics Commission, because the Appellees counsel with the help of District Attorney Robert Smith and his character witness Tony Davis, in his criminal trial, who was a defendant in STRINGER V. AMERICAN BANKERS INSURANCE COMPANY OF FLORIDA, 822 So. 2d 1011, are behind Chancery Judge Thomas, trying to have Appellant arrested on June 1<sup>st</sup>, 2016 hearing, with promise that they with Ed Peters will give him campaign funds and that they control the black vote in Jackson and Hinds County area. (See Exhibit "7") submitted by Appellees counsel on June 1<sup>st</sup>, 2016 hearing. Through these individuals they have gotten the chancery clerk, and chancery judge to not follow the rules of civil procedures dealing with a defendant who is in Default. See (Vol. 2., Trs., pgs 44-45), you will see the chancery judge allowed Appellees counsel to go on a fishing expedition in a case that was in default. See NATIONAL SHOPMEN PENSION FUND V. RUSSUELL, 283 F.R.D. 16, Where as here there is a complete "absence of any request to set aside the default or suggestion by the defendant that it has a meritorious defense, it is clear that the standard for default has been satisfied. Also see Fifth Circuit of Appeal, in BHTT ENTERTAINMENT, INCORPORATED, V. BRICLHOUS CATE & LOUNGE, ET AL, 858 F. 3d 310 and this case addresses the very same issue that is before this Court! In the alternative, BHTT contends that Brickhouse's failure to contest the default judgment

first in the district court means that all its issues in the court of appeals are waived, based on our well-known practice of generally not considering arguments not first made before the district court. See if this court will look at the motion to dismiss, on the first page it tells procedural background. If you see Appellee's counsel does not even have the January 5<sup>th</sup>, 2016 date listed, being that default being filed and counsel enters a appearance on January 6<sup>th</sup>, 2016, above facts show that District Attorney Robert Smith who has been indicted on obstruction of justice in a criminal case, show evidence that they were obstructing justice in civil cases to! For more about Chancery Judge performance, see Appellant Brief docketed in March 24<sup>th</sup>, 2017. The cases in the Appellee motion to dismiss IN RE ESTATE OF LEWIS, 135 So. 3d 202 and WILLAMS V.

WISON'S MOBILE HOME SERV., 887 So. 2d 830, did not apply to this case because this is appeal from a Rule 59(e) motion to alter or amend judgment and were, they were both appeals from a single issue and in both cases the judge was not given a second chance to review the issues on appeal! Under Mississippi Rule of Civil Procedure that is all that is required for a final judgement. On April 25<sup>th</sup>, 2019, Order by Chancery Judge Thomas, you will see Judge Thomas uses the word Finally in his last Order and therefore a Final Judgment has been made. See COAHOMA COUNTY BANK & TRUST CO. V. FEINBERG, 128 So. 2d 562, at 565, Evidence, section 136 p.141. The party who has the burden of proof may be determined by considering which would succeed if no evidence was offered, by examining what would be the effect of striking out the record the allegation to prove. The appellee's are in default since January 5<sup>th</sup>, 2016. (Vol. 1., pg.86) Chancery Judge Patricia D Wise understood this fact and would not allow the Appellee's counsel to raise a defense, so with the help of District Attorney Robert Smith he got her to recuse herself

and Appellee's counsel went judge shopping for one who would allow him to break the rules, when a default judgment prohibits of raising a defense. See SOUTHE V. UNITED STATES, 40 F.R.D. 374: Upon motion made by a party before responding to a pleading of if no responsive pleading is permitted by these rules upon motion made by a party within 20 days after service of the pleading, upon him or upon the court's own initiative at any time the court may order stricken from any pleading any insufficient immaterial impertinent, or scandalous matter. As for Appellee's counsel claim that Terminal Resource, was not served. Counsel entered a appearance for Crexendo the parent company, who counsel states is over all the named business in the complaint, and it Crexendo that pays all damages in all civil action for all the other named defendants named in the complaint! So, all of them have been served under the rules of civil procedure. That finely I want to point out that Justice Michael K. Randolph granted a stay in the briefing schedule after the Appellees brief was due and that Justice Jess H. Dickinson, Justice P.J. Coleman and Justice Beam, JJ., granted a Motion to Dismiss some one Hundred, fifty days after the Appellant Brief was filed. I state on the record I question the Judicial Integrity of these Justice's! Because they are not interpreting the facts of the case, or the rules of civil procedure, or the case law cited as they are written! In fact, they did not even cite any facts, any rule of civil procedure, or any case law to support their ruling that has no merit.

## ARGUMENT 2

THE CHANCERY COURT DENIED THE APPELLANT/PLAINTIF  
THE RIGHT TO REPRESENT HIMSELF IN CIVIL ACTION AND  
TO BE TREATED THE SAME AS OTHER APPELLANT/  
PLAINTIFF WHO HAVE CAME BEFORE THE  
CHANCERY COURT ON A DEFAULT JUDEMENT IN  
VIOLATION OF THE SIX AND FOURTEETH AMENDMENT  
OF THE UNTTED STATES CONSTITUTION.

That on September 8<sup>th</sup>, 2016 the Appellant Charles Stringer, pro se filed a Motion to Alter or Amend Judgment, ( Vol. I, Dct., pgs. 104-106). On page 105, stating: The above facts stated in the first three paragraph is a violation of the Plaintiff Charles L. Stringer Sixth and Fourteenth Amendment to United States Constitution, that his right to represent himself in civil legal matter and him being treated the same as other Plaintiffs who have come before this Court on a default issues, this will be proven by this Court stating on the record how many default cases have come before him since being a judge and how many of them he has dismiss on these grounds. That on November 12th, 2015, Appellant Pro Se Charles L Stringer files a complaint on grounds of Fraud and Unjust Enrichment (Vol 1, Dct., pgs. 4-13). That some fifty-four days after that Appellant served the defendants with process, the Appellant files with the clerk office January 5th, 2016, Request for Default Judgment, Affidavit for Default Judgement and Affidavit as to Military Services, (Vol. 1, Dct. Pgs 16-18). see NATIONAL SHOPMEN PENSION FUND V. RUSSELL, 283 F.R.D 16, at 19

Where as here there is a complete absence of any request to set aside the default or suggestion by the defendant that it has a meritorious defense, it is clear that the standard for default judgment has been satisfied.

Also See BHTT ENTRTTAINMENT INCORPORATED. V. BRICHOUD CAFE & LOUNGE ET AL 858 F. 3d 310 In the alternative, BHIT contends that Brickhouse's failure to contest the default judgment first in the district court means that all its issues in the court of appeals are waived based on our well-known practice of generally not considering arguments not first before the district court. As this Court, will see through this Appeal, not once did the Appellee/Defendant counsel ever seek to file a motion to set aside default judgment that was entered on January 5<sup>th</sup>, 2016. That on March 23<sup>rd</sup>, 2016, Appellant request a hearing before Chancery Court Judge Patricia D. Wise on hearing for a hearing on two motions for permeant injunction (Vol. 1 Dct. 21-23), requesting that the defendants put Appellant/Plaintiff website back on the Internet without a fee and to stop charging Appellant/Plaintiff a fee ever month to process credit cards. see JULES JORDON VIDEO: INC. V. 144942 CONAOLO. INC. 617 F.3d 1146(9<sup>th</sup>, Cir. 2010) at 1159, A defaulted defendant cannot answer the complaint unless and until the defaulted is vacated. At Judge Wise hearing on March 23<sup>rd</sup>, 2016, ( VOL 2, Cr., Trs pages 2-22), you will see that all she does is harass the Appellant/Plaintiff pro se about the fact he is not a attorney and he does not have a right to represent himself in her court. This is a violation of 28 U.S.C. A. & 1654 . and in violation of the Six and Fourteenth Amendment of the United State Constitution. Again in JULES

JORDON I DE INC. at 1159 it also cannot respond to request for admission at least until the default is vacated. See DYASTEEL V. AZTEC INDUSTRIES 611 So.2d 977 Judgment Debtor that did not file answer to creditor's complaint did not appeal within meaning of rule governing applications for default judgment and was not entitled to notice of creditor's application for default, absent evidence showing intent on part of debtor to defend; debtor did not hire attorney before entry of judgment and did not respond to any creditor's settlement offers. Rule Civil Proc. 55(b). That on that same date March 23<sup>rd</sup>, 2016, Judge Wise also told Appellant/Plaintiff pro se in the middle of his hearing to stop talking and step aside and allow Attorney John Reeves to have his hearing at the same time as Appellant/Plaintiff was having his and I had to sit through a hearing were the witness claimed to be a DEA agent and he was being ask about how much he was paying his x-wife in child support. When he started telling him he could not remember and each time Reeves ask a question, he would say I don't remember. I Appellant/Plaintiff sat there for some twenty minutes before they ask the Judge to let him go to his hotel and get all the documents, he had to be able to answer their questions. At (Vol. 2, Cr., Trs.21-22) that is where the court reporter says (Recess) were the above facts took place. When she come back to Appellant/Plaintiff pro se she recuses, herself and issues a Order (Vol. 1, Cr. Dct. 66) This cause came before this Court on Motion for Permanent Injunction. The Court, finding that it has jurisdiction over the person and subject matter herein and considering all other facts and matters relative thereto, finds that it will be necessary and proper for Chancellor Patricia D. Wise to recuse herself from any further actions in this case. Judge Wise would rather recuse herself from my case before she would have to

rule in Appellant favor! See TRAGUTH V. ZUCK, 710 F. 2d 90(1983) at 95

The district court also abused its discretions in failing to take into account Zuck pro se status, Implicit in the right to selfrepresent is an obligation on the part of the court to make reasonable allowances to protect pro se litigants from inadvertent for forfeiture of important rights because of their lack of training.

That as I (Plaintiff/Appellant) was leaving the Chancery court that March 23<sup>rd</sup>, 2016, outside the courthouse, I saw the man who claim to be going to his hotel room to get documents, the DEA agent and he was waiting on me, I just kept walking. But the point has been since my November 16<sup>th</sup>, 1988, arrest in Stringer v. State? 627 So. 2d 326, I have had to deal with Defendants in Stringer v. Peters, 464 Fed. Appx. 309, demanding they be allowed to have meeting with the judges in my Justice, Municipal, County, Circuit, Chancery, State and Federal courts without Plaintiff/Appellant being present! That when there was a hearing in any of my criminal cases or lawsuits cases filed, demanding that they not rule in Plaintiff/Appellant favor. Because I am not like them, I do not try to have my friends and family arrested or help them set them up like they did me! Again, on March 23<sup>rd</sup>, 2016, that had been what happen with Chancery Judge Wise. That the child custody hearing was just a stage act and all they were doing was trying to get the present lawsuit dismiss! But Judge Wise, just decide to recuse herself rather than be put in the middle criminal conspiracy that date back to 1988. That John Reeves and this DEA agents are new parties in Peters' case. That for

this Court to understand why the Plaintiff/Appellant is acting Por Se, we must go back to his criminal case Stringer v. State, 627 So. 2d 326, In that case Attorney Thomas Lowe, had conspired with Ed Peters and other defendants in the Rico case to send Plaintiff/Appellant to prison to this date of filing this appeal. But if you read the case, you will see that I stood up and raised up my hand and ask for a mistrial, because my attorney was misrepresenting Plaintiff/Appellant. See ANDREWS V. BECHTEL POWER CORP. 780 F.2d 124, Which states: Section 1654 comes to us freighted with history; it call back visions of days when much litigation especially on the law side", was carried on by strong self-reliant citizens who preferred to appeal to the sense of justice of "the country rather than entrust their causes to lawyers trained in the intricacies of the law. Again, in Stringer v. State, this Court wrote:

We take this opportunity to caution this bench and bar of growing number of reversals caused by inefficient, ineffective or unprofessional conduct by counsel. Retrials of criminal proceedings are extremely costly to the taxpayers of this State. It is not beyond the authority of this Court to assess the entire costs of a new trial to the attorney whose conduct made the trial necessary in those cases where this occurs. Personal liability for this cost may well be imposed by this Court in the future and it will be done with an even hand, Applies both to the private attorney and the attorney re- Presenting the State.

This Court is increasingly unwilling to cast the burden of incompetence on innocent taxpayers and Consider this notice to the bench and bar that in the future We may not do so.

It because of this above statement and the fact that every attorney Plaintiff/Appellant tried to hire find out that there is a conspiracy by Ed Peters and the other defendants in that case against him that make them withdraw from his case and will not try and seek out federal agents to help Plaintiff/Appellant get justice in his cases! Now back to case at hand, this is not the first time the Plaintiff/Appellant has gotten a default judgment, see Stringer v. Campbell et al., 30 F. 3d 1492 and Stringer v. McAdory, et al., 42 F. 3d 642, both are unpunished opinions. Judge Tom Lee and Judge William Barbour first made the Defendant counsels in those cases first file a motion to set aside default Judgments, before their counsels could files answer and affirmative defenses in these cases. Again see Stringer v. American Bankers Insurance Company of Florida, et al., 822 So. 2d 1011, in that case Judge James Graves would not allow counsel to file answer and affirmative defenses, until a motion to vacate or to set aside default judgment was filed. see NATIONAL SHOPMEN PENSION FUND V. RUSSELL, 283 F.R.D 16, at 19

Where as here there is a complete "absence of any request to set aside the default or suggestion by the defendant that it has a meritorious defense, it is clear that the standard for default judgment has been satisfied.

In MARSHALL V. BAGGETT 616 F.3d 849(8<sup>th</sup>, Cir.2010) It is nearly axiomatic that when a default judgment is entered

facts alleged in the complaint may not be later contested. See Thomson v. Wooster, 114 U.S. 104,. This is a violation of 28 U.S.C. A. & 1654 and of the Plaintiff/Appellant Sixth and Fourteenth Amendment to United States Constitution, that his right to represent himself in civil legal matter and him being treated the same as other Plaintiffs.

### ARGUMENT 3

THE CHANCERY COURT ERRED CITING BAKER & MCKENZIE, LLP V. EVENS 123 so. 3d 387(Miss.2013) at 401 IS NOT ONE DIGEST KEY IN THAT CASE THAT ADDRESS A RULE MOTION AND IT STATES COMPLAINTS FILED IN OTHER STATES UNDER DIFFERENT LEGAL CLAIMS IS NOT COLLATERAL ESTOPPEL.

That on September 1<sup>st</sup>, 2016, Chancery Court Judge Dewayne Thomas issued a Order of Dismissal under Rule 12(b)(6) of the Mississippi Rules of Civil Procedure, (Vol. 1, pgs.101-103). At 102-103, Accordingly, this Court must grant the Defendants' Motion to Dismiss and dismiss the Plaintiffs Complaint for failure to state a claim upon which relief can be granted under Rule 12(b)(6). Such dismissal shall be with prejudice. That on March 11<sup>th</sup>, 2016 the Defendants/Appellees filed Defendants' Answer and Affirmative Defenses to Complaint, (Vol. 1, pgs. 27-33) and Motion to Dismiss Plaintiffs Complaint with Prejudice, (Vol. 1, pgs. 34-41). That on March 17<sup>th</sup>, 2016, the Plaintiff/Appellant filed his Response to Defendants Motion to Dismiss, (Vol. 1, pgs. 70-85). As stated in the Response: First this Court will see that the Defendants are in Default and have been since January 5<sup>th</sup>, 2016,

some 73 days and the Defendants counsel filed a Notice of Appearance on January 6<sup>th</sup>, 2016, so it, not like he didn't know of fact! Because of the Default, counsel for the Defendants cannot file any motion to dismiss, because of this fact, he must first deal with the issue of Default and it is not Plaintiff job to tell him this fact or how to deal with it. Counsel cannot object to any pleadings filed by the Plaintiff or any statements made by Plaintiff in open Court on our hearing on March 23<sup>rd</sup>, 2016, he can only watch what take place and report to the Defendants what has taken place. That all Defendants counsel did at that hearing March 23<sup>rd</sup>, 2016. Because Chancery Judge Wise Would not allow it. But on our June 1<sup>st</sup>, 2016 hearing before Chancery Judge Thomas, he allowed Attorney Weldy to raise a Motion to Dismiss, when he was in Default, something he knew Chancery Judge Wise would not allow, (Vol 2, pgs.n25-54). See SHAKMANET AL V. DEMOCRATIC ORGONIZATION OF 00K, 533 F. 2d 344, at 352 Moreover plaintiffs alleged in their petition that Cardilli possessed actual notice of the judgment, Respondents failure to deny this allegation in their answer deemed as admission under Fed R.Civ. P.8(d). Again if this Court would review BAKER & MCKENZIE LLP V. EVENS 123 so. 2d 387(Miss.2013), at 401, To succeed on a motion for a judgment as a matter of law, a party must prove that "the pleadings, depositions, answers to interrogatories and admissions on file, together with affidavits, if any show that there is no genuine issue of material fact. In Baker this Court stated only after discovery can a Judge make a ruling of doctrine of collateral estoppel and res judicata. Had Chancery Judge Thomas read all of Baker he would have known he could not grant such a ruling without discovery and he was procedure bar based on that fact alone! Again, if we go by Baker ruling on this

case, it support the Plaintiff/Appellant, how a class action lawsuit filed by attorneys Christopher Brown and Glen Reid in Circuit Court of Shelby County Tennessee, (Vol. 1, at 49-56) on the grounds of how many hours person work on a website over the telephone. Could give the Chancery Court Judge the idea it applies to my case, were the Plaintiff/Appellant never collected a dime in that lawsuit! See Baker at 402, Even if the nonparty is considered to be in privity, the issues must be "the specific issues actually litigated." Marcum v. Mississippi Valley Gas Co. Inc., 672 So. 2d 730(Miss.1996). This is a Fraud and Unjust Enrichment action that has never been filed in any other courts and was filed the first time in Chancery Court on November 12<sup>th</sup>,2015, (Vol. 1, pgs. 4-13). That on September 10<sup>th</sup>, 2015, in New Orleans, Louisiana before Arbitrator Robert Redfearn, Jr. Appealing at the hearing were Charles Stringer ("Claimant"), and Jeffery Korn, on behalf of Storesonline, Inc. and its parent, Credxendo, Inc. (Respondents"), (Exhibit 4, from Trial Exhibits List). It states in the next paragraph what the ground for the Arbitration were. That none of those grounds are what this lawsuit were filed on, that being Fraud and Unjust Enrichment! See (Vol. 1, pgs.11-12) First case of Action, that because the Arbitrator Robert Redfearn Jr., did not address the other issues raised, reimbursement of certain fees for hosting his website, domain registration and credit card processing that he is being improperly charged, that Storesonline had told Charles Stringer if he finished his Website by the end of 2008\* they would pay him ten thousand dollars as a spokesman for Storesonline at one of their Internet Marketing Workshop. A undefined amount for his website being down for about one year, the above facts amount to Fraud and Unjust Enrichment, since it would cost tens of thousands of dollars to have to

That on September 8<sup>th</sup>, 2016, the Plaintiff/Appellant filed a motion to Alter or Amend Judgment (Vol. 1, pgs-104-105). The Chancery Court erred in not addressing Plaintiff motion to Strike Answer And Affirmative Defendants under MRCP 12(f) because the defendants are in default, as of January 5<sup>th</sup>, 2016, and because of this fact, the defendants counsel is not allowed to file any pleadings, until this issue is addressed by the court. On March 11<sup>th</sup>, 2016, some 120 days since process was issued and some 66 days after default was entered, the defendants counsel filed his Answer to Complaint and his Motion to Dismiss, (Vol. 1, pgs. 27-42). see SHAKMAN ET AL V. DEMOCRATIC ORGONIZATION OF COOK 533 F. 2d 344,

at 352 Moreover plaintiffs alleged in their petition that Cardilli possessed actual notice of the judgment, Respondents failure to deny this allegation in their answer deemed as admission under Fed R.Civ. P. 8(d). That on March 17<sup>th</sup>, 2016 the Plaintiff files his Response to Defendants counsel motion to dismiss, addressing all the defendants counsel claims and stating on the record that all the claims raised by defendants' counsel were in fact frivolous, (Vol. 1, pgs. 70-74). That on March 23<sup>rd</sup>, 2016, Judge Patricia D. Wise issues a Order stating: This cause came before this Court on Motion for Permanent Injunction. The Court, finding that it has jurisdiction over the person and subject matter herein, and considering all other facts and matters relative thereto, finds that it will be necessary and proper for Chancellor Patricia D. Wise to recuse herself from any further actions in this case, (Vol. 1, pg. 86). That on April 19<sup>th</sup>, 2016, the plaintiff files two motion to strike on the grounds that the defendants counsel motion to dismiss is prohibited on grounds that the defendants are in default and that it violates 902, 1001 and 1002 of Mississippi rules of Evidences (Vol. 1, pgs. 87-88). see GEORGE B. GLIMORE CO. V. GARRETT 582 So. 2d 387 at 396 This circuit court correctly

excluded them. There was no showing that these were in fact true and correct copies of VA Inspection report on the construction of the house. That since the filing of these motion to strike, the defendants counsel has not filed any response to them. See LIPTION INDUSTRIES INC. V. RALSTON PURINA CO. 670 F. 2d 1024, at 1030, Rule 8(d) of Miss. Rules of Civil Procedure provides Averments in pleading to which a responsive pleading is required are admitted when not denied in the responsive pleading. That on June 1<sup>st</sup>, 2016, the Plaintiff had a hearing before Chancery Judge Dewayne Thomas, on his two Motion for Permanent Injunctions, not once has the defendants counsel filed any response to these motions and defendants counsel in open court on June 1<sup>st</sup>, 2016, did not object to this Court in granting these Injunctions, See Miss. Rule of Civil Procedure 8(d) Effect of Failure to Deny. Averments in a pleading to which a responsive pleading is required, other than those as to the amount of damages, are admitted when not denied in the responsive pleading. I want to incorporate this fourth argument in support of my first argument. This is a violation of 28 U.S.C. A. & 1654 and of the Plaintiff/Appellant Sixth and Fourteenth Amendment to United States Constitution, that his right to represent himself in civil legal matter and him being treated the same as other Plaintiffs

#### ARGUMENT 5

THE CHANCERY COURT JUDGE ERRED IN NOT GRANDING PLAINTIFF SECOND MOTION TO STRIKE MOTION TO DISMISS UNDER MRCP. 12(f).

That on September 8th, 2016, the Plaintiff/Appellant file a motion to Alter or Amend Judgment, (Vol. 1, pgs.104-105). The Chancery Court erred in not addressing Plaintiff motion to Strike Motion to Dismiss, under MRCP 12(f) because the defendants are in Default, as of January 5<sup>th</sup>, 2016 and because, the defendants counsel is not allowed to file any pleadings, until this issue is addressed by the court.

On March 11th, 2016, some 120 days since process was issued and some 66 days after default was entered, the defendants counsel files his Answer to Complaint and his Motion to Dismiss, (Vol. 1, pgs. 2742). See SHAKMAN ET AL V. DEMOCRATIC ORGANIZATION OF COOK 533 F. 2d 344, at 352 Moreover plaintiffs alleged in their petition that Cardilli possessed actual notice of the judgment, Respondents failure to deny this allegation in their answer deemed as admission under Fed R.Civ. P. 8(d). That on March 17th, 2016 the Plaintiff files his Response to Defendants counsel motion to dismiss, addressing all the defendants counsel claims and stating on the record that all the claims by defendants' counsel were in fact frivolous, (Vol. 1, pgs. 70-74). That on April 19th, 2016, the plaintiff files two motion to strike on the grounds that the defendants counsel motion to dismiss is prohibited on grounds that the defendants are in default and that it violates 902, 1001 and 1002 of Mississippi rules of Evidences (Vol. 1, pgs. 87-88). see GEORGE B. GLIMORE CO. V. GARRETT 582 so. 2d 387 at 396 This circuit court correctly excluded them. There was no showing that these were in fact true and correct copies of VA Inspection report on the

construction of the house. That since the filing of these motion to strike, the defendants counsel has not filed any response to them. see LIPTIQN INDUSTRIES, INC. V. RALSTON PURINA CO., 670 F. 2d 1024, at 1030, Rule 8(d) of Miss. Rules of Civil Procedure provides Averments in pleading to which a responsive pleading is required are admitted when not denied in the responsive pleading. That the plaintiff Charles L Stringer took that stand on June 1<sup>st</sup>, 2016 and testified that he in fact owns the website and he owns the credit card processing program and entered into evidence, Certificate for Confidential Storesonline Merchants Only, stating: Plaintiff Charles L. Stringer does not have to pay these monthly fees, that they are being waved. After the Plaintiff rested, the defendants counsel tried to make all kinds of legal claims. The Plaintiff objected to all his claims and to any documents he tried to be entered under Mississippi Rule of Evidence. see COAHOMA COUNTY BANK & TRUST CO. V. FEINBERG.128 So. 2d 562 at 565 Evidence, section 136 p.141. The party who has the burden of proof may be determined by considering which would succeed if no evidence was offered, and by examining what would be the effect of striking out of the record the allegation to prove. See SOUTH V. UNITED STATES.40 F.R.D. 374 at 375 Upon motion made by a party before responding to a pleading or if no responsive pleading is permitted by these rules upon motion made by a party within 20 days after service of the pleading, upon him or upon the court's own initiative at any time the court may order stricken from any pleading any insufficient immaterial, impertinent, or scandalous matter. The Plaintiff objection that the defendants counsel tried to entered evidence

and attached exhibits to his motion to dismiss, spoliated evidence. see DOWDLE BUTANE GAS CO. INC. V. MOORE 831 so. 2d 1124(Miss.2002) at 1127 The inference entitles the non-offending party to an instruction that the jury may infer that spoliated evidence is unfavorable to the offending party. I want to incorporate this fifth argument in support of my first argument. This is a violation of 28 U.S.C. A. & 1654 and of the Plaintiff/Appellant Sixth and Fourteenth Amendment to United States Constitution, that his right to represent himself in civil legal matter and him being treated the same as other Plaintiffs.

#### CONCLUSION

In conclusion, this Court should grant the Petition For A Writ of Certiorari and issue a order striking all Respondent pleadings from the record, with instructions that the Respondents are not to be allowed to file any pleading because they have been in default since January 5<sup>th</sup>, 2016. And grant any other issue this Court should find to be deem fit and proper in the above styled case.

Respectfully Submitted,

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Charles Lavel Stringer