

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

**MISSISSIPPI DEPARTMENT OF HUMAN SERVICES** **PLAINTIFF**

**v.** **CAUSE No. 22-cv-00286-EFP**

**MISSISSIPPI COMMUNITY EDUCATION CENTER, INC., ET AL.** **DEFENDANTS**

**and**

**MISSISSIPPI COMMUNITY EDUCATION CENTER, INC.** **COUNTER-PLAINTIFF**

**v.**

**MISSISSIPPI DEPARTMENT OF HUMAN SERVICES** **COUNTER-DEFENDANT**

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**DEFENDANT NANCY NEW'S ANSWER AND AFFIRMATIVE DEFENSES**

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COMES NOW Defendant Nancy Whitten New, through counsel, and files her Answer and Affirmative Defenses to the Complaint filed by the Mississippi Department of Human Services ("MDHS").

**GENERAL DENIALS AND DEFENSES**

Pursuant to Mississippi Rule of Civil Procedure 8(b), Defendant generally denies each and every averment contained in the Complaint not specifically admitted including, without limitation, all averments contained in the initial paragraph, the headings, the numbered paragraphs and subparts, the unnumbered paragraphs and subparts, and all tables, charts and graphs. Defendant has no obligation to respond to Legal Conclusions, as that term is defined herein, as they are not averments. *Id.* If a response is required, Defendant generally denies all legal conclusions, legal arguments, purported statements of law, interpretations of law, and purported applications of law to alleged facts ("Legal Conclusions") contained in the Complaint. Defendant generally denies all

avertments based on, related to, or derived from any contract not attached to the Complaint, as required by Miss. R. Civ. P. 10(d). Defendant generally denies that MDHS is entitled to any relief from Defendant whatsoever, based on any legal theory, including, without limitation, the “Relief Requested” and Paragraphs (1)-(5) on pages 66 and 67 (“Damages” or “Recovery”).

Defendant affirmatively states, generally, and incorporates into each and every paragraph of this Answer and its Affirmative Defenses that MDHS, at all times relevant hereto, acted through some or all of the following individuals, including, without limitation: Governor Phil Bryant, Executive Director John Davis, Executive Director Chris Freeze, Deputy Executive Director of Operations Jacob Black, Deputy Executive Director Garrig Shields, Deputy Executive Director of Administration David Barton, Deputy Executive Director of Administration Chip Butler, Director of Sustainable Change Ted “Teddy” DiBiase, Jr., Director of Transformational Change Brett DiBiase, Director of Budgets and Accounting Chris Christmas, Director of Budgets and Accounting Bridgette Bell, Director of Program Integrity Fredrick Ward, Director of Program Integrity Laketha Gilmore, Director of Monitoring Win Girod, Director of Monitoring Randy Derrick, Director of Procurement Services Nick Bridge, Director of Economic Assistance Larry Strebeck, Director of Funding Sandra Giddy, General Counsel and Principal Deputy Executive Director Andrea Sanders, Executive Attorney Sherry Johnson, Special Assistant Attorney General Sara Roberts, Special Assistant Attorney General Joyce Hill Williams, Special Assistant Attorney General Earl Scales, Executive Assistant Zola Haralson, and dozens of other MDHS executives, attorneys and staff (collectively, “MDHS Executives”).

### **FIRST DEFENSE**

The Complaint fails to state a claim or cause of action against Defendant upon which relief can be granted.

**SECOND DEFENSE**

MDHS is estopped from seeking Damages from Defendant that were caused, in whole or in part, by acts and/or omissions of MDHS, acting through the MDHS Executives.

**THIRD DEFENSE**

MDHS directed and/or approved all expenditures referenced in the Complaint, and Defendant had a right to rely on, and did rely on, directions and/or approvals by MDHS, acting through the MDHS Executives.

**FOURTH DEFENSE**

MDHS's breach of contract claims against Defendant fail because MDHS had no contract with Defendant.

**FIFTH DEFENSE**

MDHS, acting through the MDHS Executives, drafted, approved, and executed subgrant agreements and other contracts that were ambiguous as to Permissible TANF Expenditures.

**SIXTH DEFENSE**

MDHS cannot *ex post facto* unilaterally revise the various "scopes of work" associated with each transaction in the Complaint.

**SEVENTH DEFENSE**

MDHS is estopped from redefining permissible TANF expenditures more narrowly under Miss. Code Ann. §43-17-1(4), for purposes of this litigation, than applicable federal statutes, State Plans, subgrant agreements, and MDHS's own course of performance ("Permissible TANF Expenditures), which were in existence and practice prior to and during the relevant time period.

**EIGHTH DEFENSE**

MDHS is estopped from substituting or conflating obligations arising under one subgrant or contract with obligations arising under another subgrant or contract.

**NINTH DEFENSE**

MDHS, acting through the MDHS Executives, was contributorily negligent in directing and/or approving the expenditures described in the Complaint, to the extent these expenditures were not Permissible TANF Expenditures.

**TENTH DEFENSE**

Defendant acted under duress as a result of financial and other hardships imposed on Defendant by MDHS, acting through MDHS Executives.

**ELEVENTH DEFENSE**

MDHS is estopped from disclaiming spending decisions made, in whole or in part, at the direction of MDHS Executives and/or with their knowledge, approval and/or participation.

**TWELFTH DEFENSE**

If any of the MDHS Executives acted illegally, as alleged by MDHS, Defendant is not liable for Damages caused said illegal conduct.

**THIRTEENTH DEFENSE**

If there was a civil conspiracy as alleged in the Complaint, MDHS, acting through the MDHS Executives, was a co-conspirator and cannot recover Damages.

**FOURTEENTH DEFENSE**

To the extent funds were spent outside Permissible TANF Expenditures, Defendant is entitled to contribution from MDHS for its direction, approval and other conduct, acting through the MDHS Executives, that resulted, in whole or in part, in any Damages.

**FIFTEENTH DEFENSE**

Defendant is entitled to setoff based on MDHS's conduct, acting through the MDHS Executives, which directly and proximately caused and/or contributed to any Damages.

**SIXTEENTH DEFENSE**

MDHS, acting through the MDHS Executives, has waived its right to pursue Recovery from Defendant.

**SEVENTEENTH DEFENSE**

MDHS has failed to plead its fraud allegations against Defendant with particularity, as required by Mississippi Rule of Civil Procedure 9(b).

**EIGHTEENTH DEFENSE**

MDHS's negligent acts, omissions, and/or intentional conduct, through the MDHS Executives, bars Recovery from Defendant.

**NINETEENTH DEFENSE**

MDHS, acting through the MDHS Executives, was the proximate cause of any alleged misspending; without MDHS's conduct, through the MDHS Executives, no alleged misspending would have occurred.

**TWENTIETH DEFENSE**

Defendant hereby answers each and every averment in the Complaint, paragraph-by-paragraph, as follows:

**ANSWER**

1. The averments in Paragraph 1 are not directed at Defendant, and, therefore, no response is required.

2. The averments in Paragraph 2 are not directed at Defendant, and, therefore, no response is required.

3. The averments in Paragraph 3 are not directed at Defendant, and, therefore, no response is required.

4. Defendant admits that she is an adult resident of Jackson, Mississippi, who may be served with process at her residence on Sheffield Drive, as listed in the Complaint. The remaining averments in Paragraph 4 are denied.

5. The averments in Paragraph 5 are not directed at Defendant, and, therefore, no response is required.

6. The averments in Paragraph 6 are not directed at Defendant, and, therefore, no response is required.

7. The averments in Paragraph 7 are not directed at Defendant, and, therefore, no response is required.

8. The averments in Paragraph 8 are not directed at Defendant, and, therefore, no response is required.

9. The averments in Paragraph 9 are not directed at Defendant, and, therefore, no response is required.

10. The averments in Paragraph 10 are not directed at Defendant, and, therefore, no response is required.

11. The averments in Paragraph 11 are not directed at Defendant, and, therefore, no response is required.

12. The averments in Paragraph 12 are not directed at Defendant, and, therefore, no response is required.

13. The averments in Paragraph 13 are not directed at Defendant, and, therefore, no response is required.

14. The averments in Paragraph 14 are not directed at Defendant, and, therefore, no response is required.

15. The averments in Paragraph 15 are not directed at Defendant, and, therefore, no response is required.

16. The averments in Paragraph 16 are not directed at Defendant, and, therefore, no response is required.

17. The averments in Paragraph 17 are not directed at Defendant, and, therefore, no response is required.

18. The averments in Paragraph 18 are not directed at Defendant, and, therefore, no response is required.

19. The averments in Paragraph 19 are not directed at Defendant, and, therefore, no response is required.

20. The averments in Paragraph 20 are not directed at Defendant, and, therefore, no response is required.

21. The averments in Paragraph 21 are not directed at Defendant, and, therefore, no response is required.

22. The averments in Paragraph 22 are not directed at Defendant, and, therefore, no response is required.

23. The averments in Paragraph 23 are not directed at Defendant, and, therefore, no response is required.

24. The averments in Paragraph 24 are not directed at Defendant, and, therefore, no response is required.

25. The averments in Paragraph 25 are not directed at Defendant, and, therefore, no response is required.

26. The averments in Paragraph 26 are not directed at Defendant, and, therefore, no response is required.

27. The averments in Paragraph 27 are not directed at Defendant, and, therefore, no response is required.

28. The averments in Paragraph 28 are not directed at Defendant, and, therefore, no response is required.

29. The averments in Paragraph 29 are not directed at Defendant, and, therefore, no response is required.

30. The averments in Paragraph 30 are not directed at Defendant, and, therefore, no response is required.

31. The averments in Paragraph 31 are not directed at Defendant, and, therefore, no response is required.

32. The averments in Paragraph 32 are not directed at Defendant, and, therefore, no response is required.

33. The averments in Paragraph 33 are not directed at Defendant, and, therefore, no response is required.

34. The averments in Paragraph 34 are not directed at Defendant, and, therefore, no response is required.



35. The averments in Paragraph 35 are not directed at Defendant, and, therefore, no response is required.

36. The averments in Paragraph 36 are not directed at Defendant, and, therefore, no response is required.

37. The averments in Paragraph 37 are not directed at Defendant, and, therefore, no response is required.

38. The averments in Paragraph 38 are not directed at Defendant, and, therefore, no response is required.

39. The averments in Paragraph 39 are not directed at Defendant, and, therefore, no response is required.

40. Denied.

41. Denied.

42. Denied.

43. Denied.

44. Denied as stated. Any contracts, whether subgrant agreements or otherwise, speak for themselves.

45. Paragraph 45 is not directed at Defendant. Therefore, no response is required. If a response is required, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments. Therefore, they are denied.

46. Paragraph 46 is not directed at Defendant. Therefore, no response is required. If a response is required, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments. Therefore, they are denied.

47. Paragraph 47 is not directed at Defendant, and, therefore, no response is required. If a response is required, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments. Therefore, they are denied.

48. Paragraph 48 is not directed at Defendant. Therefore, no response is required. If a response is required, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments. Therefore, they are denied.

49. Paragraph 49 is not directed at Defendant. Therefore, no response is required. If a response is required, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments. Therefore, they are denied.

50. Paragraph 50 is not directed at Defendant. Therefore, no response is required. If a response is required, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments. Therefore, they are denied.

51. Denied.

52. Denied.

53. Denied.

54. Denied.

55. Denied.

56. Paragraph 56 is not directed at Defendant. Therefore, no response is required. If a response is required, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments. Therefore, they are denied.

57. Paragraph 57 is not directed at Defendant. Therefore, no response is required. If a response is required, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments. Therefore, they are denied.

58. Denied as stated. Any contracts, whether subgrant agreements or otherwise, speak for themselves.

59. Paragraph 59 is not directed at Defendant. Therefore, no response is required. If a response is required, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments. Therefore, they are denied.

60. Denied.

61. Denied.

62. Denied.

63. Denied.

64. Denied.

65. Denied.

66. Denied.

67. Denied as stated, including all averments in Paragraph 67 and Table 1.

MDHS, acting through John Davis and the MDHS Executives, instructed Defendant to cause MCEC to hire Austin Smith, using, in whole or in part, limited purpose grant funds, to perform computer-related services for MDHS, John Davis, and others, as an inducement or incentive to John Davis and others.

MDHS, acting through John Davis and the MDHS Executives, instructed Defendant to cause MCEC to contract with Priceless Ventures LLC on May 1, 2018 for a five month term; and on October 1, 2018 for a twelve month term in the amount of \$130,000 for “Law of 16 personal development and professional leadership training and other services and activities throughout the State of Mississippi.”

MDHS, acting through John Davis and the MDHS Executives, instructed Defendant to cause MCEC to contract with and/or employ Adam Such.

MDHS, acting through John Davis and the MDHS Executives, instructed Defendant to cause MCEC to hire MDHS Director of Transformational Change Brett DiBiase in or around September 2017 at an annual salary of \$250,000 plus travel allowance.

68. Denied.

69. Denied.

70. Denied.

71. Denied.

72. Denied as stated. MDHS, acting through John Davis and the MDHS Executives, instructed Defendant to cause MCEC to hire Austin Smith, using, in whole or in part, limited purpose grant funds, to perform computer-related services for MDHS, John Davis, and others, as an inducement or incentive to John Davis and others.

73. Denied as stated. MDHS, acting through John Davis and the MDHS Executives, instructed Defendant to cause MCEC to hire Austin Smith, using, in whole or in part, limited purpose grant funds, to perform computer-related services for MDHS, John Davis, and others, as an inducement or incentive to John Davis and others.

74. Denied as stated. MDHS, acting through John Davis and the MDHS Executives, instructed Defendant to cause MCEC to hire Austin Smith, using, in whole or in part, limited purpose grant funds, to perform computer-related services for MDHS, John Davis, and others, as an inducement or incentive to John Davis and others.

75. Paragraph 75 is not directed at Defendant. Therefore, no response is required. If a response is required, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments. Therefore, they are denied.

76. Denied as stated. MDHS, acting through John Davis and the MDHS Executives, instructed Defendant to cause MCEC to hire Austin Smith, using, in whole or in part, limited purpose grant funds, to perform computer-related services for MDHS, John Davis, and others, as an inducement or incentive to John Davis and others.

77. Paragraph 77 is not directed at Defendant. Therefore, no response is required. If a response is required, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments. Therefore, they are denied.

78. Denied.

79. Paragraph 79 is not directed at Defendant. Therefore, no response is required. If a response is required, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments. Therefore, they are denied.

80. Paragraph 80 is not directed at Defendant. Therefore, no response is required. If a response is required, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments. Therefore, they are denied.

81. Paragraph 81 is not directed at Defendant. Therefore, no response is required. If a response is required, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments. Therefore, they are denied.

82. Denied as stated. MDHS, acting through John Davis and the MDHS Executives, instructed Defendant to cause MCEC to contract with Priceless Ventures LLC on May 1, 2018 for a five month term; and on October 1, 2018 for a twelve month term in the amount of \$130,000 for

“Law of 16 personal development and professional leadership training and other services and activities throughout the State of Mississippi.”

83. Denied as stated. MDHS, acting through John Davis and the MDHS Executives, instructed Defendant to cause MCEC to contract with Priceless Ventures LLC on May 1, 2018 for a five month term; and on October 1, 2018 for a twelve month term in the amount of \$130,000 for “Law of 16 personal development and professional leadership training and other services and activities throughout the State of Mississippi.”

84. Denied as stated. MDHS, acting through John Davis and the MDHS Executives, instructed Defendant to cause MCEC to contract with Priceless Ventures LLC on May 1, 2018 for a five month term; and on October 1, 2018 for a twelve month term in the amount of \$130,000 for “Law of 16 personal development and professional leadership training and other services and activities throughout the State of Mississippi.”

85. Paragraph 85 is not directed at Defendant. Therefore, no response is required. If a response is required, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments. Therefore, they are denied.

86. Paragraph 86 is not directed at Defendant. Therefore, no response is required. If a response is required, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments. Therefore, they are denied.

87. Denied as stated. MDHS, acting through John Davis and the MDHS Executives, instructed Defendant to cause MCEC to hire MDHS Director of Transformational Change Brett DiBiase in or around September 2017 at an annual salary of \$250,000 plus travel allowance.

88. Paragraph 88 is not directed at Defendant. Therefore, no response is required. If a response is required, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments. Therefore, they are denied.

89. Paragraph 89 is not directed at Defendant. Therefore, no response is required. If a response is required, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments. Therefore, they are denied.

90. Denied as stated. MDHS, acting through John Davis and the MDHS Executives, instructed Defendant to cause MCEC to hire MDHS Director of Transformational Change Brett DiBiase in or around September 2017 at an annual salary of \$250,000 plus travel allowance. Defendant knew that MDHS Director of Transformational Change Brett DiBiase not qualified to perform the services for which Defendant was instructed to hire him.

91. Paragraph 91 is not directed at Defendant. Therefore, no response is required. If a response is required, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments. Therefore, they are denied.

92. Denied as stated. MDHS, acting through John Davis and the MDHS Executives, instructed Defendant to cause MCEC to pay Rise in Malibu \$160,000 for treatment for Brett DiBiase.

93. Denied as stated. MDHS, acting through John Davis and the MDHS Executives, instructed Defendant to cause MCEC to pay, using limited purpose grant funds, American Express charges incurred by John Davis and other MDHS Executives that included first class travel and luxury hotel accommodations.

94. Paragraph 94 is not directed at Defendant. Therefore, no response is required. If a response is required, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments. Therefore, they are denied.

95. Paragraph 95 is not directed at Defendant. Therefore, no response is required. If a response is required, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments. Therefore, they are denied.

96. Paragraph 96 is not directed at Defendant. Therefore, no response is required. If a response is required, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments. Therefore, they are denied.

97. Paragraph 97 is not directed at Defendant. Therefore, no response is required. If a response is required, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments. Therefore, they are denied.

98. Paragraph 98 is not directed at Defendant. Therefore, no response is required. If a response is required, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments. Therefore, they are denied.

99. Paragraph 99 is not directed at Defendant. Therefore, no response is required. If a response is required, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments. Therefore, they are denied.

100. Paragraph 100 is not directed at Defendant. Therefore, no response is required. If a response is required, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments. Therefore, they are denied.



101. Paragraph 101 is not directed at Defendant. Therefore, no response is required. If a response is required, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments. Therefore, they are denied.

102. Paragraph 102 is not directed at Defendant. Therefore, no response is required. If a response is required, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments. Therefore, they are denied.

103. Paragraph 103 is not directed at Defendant. Therefore, no response is required. If a response is required, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments. Therefore, they are denied.

104. Paragraph 104 is not directed at Defendant. Therefore, no response is required. If a response is required, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments. Therefore, they are denied.

105. Paragraph 105 is not directed at Defendant. Therefore, no response is required. If a response is required, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments. Therefore, they are denied.

106. Paragraph 106 is not directed at Defendant. Therefore, no response is required. If a response is required, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments. Therefore, they are denied.

107. Paragraph 107 is not directed at Defendant. Therefore, no response is required. If a response is required, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments. Therefore, they are denied.

108. Denied as stated. MDHS, acting through John Davis and the MDHS Executives, instructed Defendant to cause MCEC to contract with NCC Ventures, LLC for \$50,000 in

consideration generally for “Workforce Development Services” to be provided between February 1, 2018 and September 30, 2018.

109. Paragraph 109 is not directed at Defendant. Therefore, no response is required. If a response is required, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments. Therefore, they are denied.

110. Denied as stated. MCEC’s contract with NCC Ventures, LLC speaks for itself concerning the scope of work.

111. Denied.

112. Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments. Therefore, they are denied.

113. Paragraph 113 is not directed at Defendant. Therefore, no response is required. If a response is required, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments. Therefore, they are denied.

114. Denied.

115. Paragraph 115 and Table 2 are denied as stated.

Defendant caused MCEC to contract with Magnolia Strategies, LLC, owned by attorney Jess New, in the amount of \$100,000 per year as a flat fee for legal services relating to contracts between MCEC and its partners around the State; lease agreements; employment agreements; policies and procedures manuals; grant and other funding mechanisms; government relations and legislative initiatives; creation and enhancement of programmatic partnerships, and other business law consulting activities. Such services are Permissible TANF Expenditures.

MDHS, acting through John Davis and the MDHS Executives, instructed Defendant to cause MCEC to fund an investment by the State of Mississippi in Prevacus, Inc. Defendant caused

funds to be transferred to Prevacus, Inc. on at least April 8, May 10, and July 16, 2019 in the amounts of \$500,000, \$250,000, and \$400,000, respectively.

New Learning Resources, Inc. received grants from MCEC for programs and services that were Permissible TANF Expenditures.

116. Paragraph 116 is not directed at Defendant. Therefore, no response is required. If a response is required, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments. Therefore, they are denied.

117. Paragraph 117 is not directed at Defendant. Therefore, no response is required. If a response is required, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments. Therefore, they are denied.

118. Denied.

119. Denied as stated. MDHS, acting through John Davis and the MDHS Executives, directed Defendant to provide \$5 million on behalf of the State of Mississippi to Prevacus, Inc. during a meeting with Jake Vanlandingham at Brett Favre's home.

120. Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments. Therefore, they are denied.

121. Denied as stated. MDHS, acting through John Davis and the MDHS Executives, directed Defendant to provide \$5 million on behalf of the State of Mississippi to Prevacus, Inc. during a meeting with Jake Vanlandingham at Brett Favre's home.

122. Denied as stated. MDHS, acting through John Davis and the MDHS Executives, directed Defendant to provide \$5 million on behalf of the State of Mississippi to Prevacus, Inc. Defendant knew that Prevacus, Inc. was ineligible to receive limited use public grant funds.

123. Denied.

124. Denied as stated. MDHS, acting through John Davis and the MDHS Executives, directed Defendant to provide \$5 million on behalf of the State of Mississippi to Prevacus, Inc.

125. Denied.

126. Denied.

127. Denied.

128. Paragraph 128 is not directed at Defendant. Therefore, no response is required. If a response is required, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments. Therefore, they are denied.

129. Paragraph 129 and the Table are denied as stated. MDHS, acting through John Davis and the MDHS Executives, directed Defendant to provide \$5 million on behalf of the State of Mississippi to Prevacus, Inc. Pursuant to instructions by MDHS, acting through John Davis and the MDHS Executives, Defendant caused funds to be transferred to Prevacus, Inc. on April 8, May 10, and July 16, 2019 in the amounts of \$500,000, \$250,000, and \$400,000, respectively. Defendant denies that any personal ownership interests in Prevacus, Inc. or PreSolMD were ever acquired.

130. Paragraph 130 and Table 3 are denied as stated.

MDHS, acting through John Davis and the MDHS Executives, instructed Defendant to cause MCEC to contract with Victory Sports Foundation in the amount of \$1,200,000.

Defendant caused MCEC to contract with the MD Foundation on January 1, 2018 in the amount of \$371,000 to provide services related to parenting and abstinence classes, teen pregnancy prevention programs, healthy marriage initiatives, relationship building skills, child abuse/neglect programs, effective fathering classes, domestic violence prevention programs, workforce

development, educational services, and other various services. Dupree performed services pursuant to this agreement, and payment for said services is a Permissible TANF Expenditure.

Governor Phil Bryant directed Defendant to provide funds to Brett Favre, and Defendant caused MCEC to contract with Favre Enterprises, Inc. in the amount of \$1,100,000 in consideration for Favre speaking at events, keynote speaking, radio and promotional events, and business partner development. Favre performed services pursuant to this agreement, and payment for said services is a Permissible TANF Expenditure.

130. [Sic] The incorrectly numbered Paragraph 130, which follows Table 3, is not directed at Defendant. Therefore, no response is required. If a response is required, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments. Therefore, they are denied.

131. Denied as stated. MDHS, acting through John Davis and other MDHS Executives, instructed Defendant to cause MCEC to contract with Victory Sports Foundation to provide fitness and nutrition services at several fitness boot camps in counties around the State in support of MDHS's Families First initiative. Victory Sports Foundation proposed and provided services pursuant to this agreement. As to what this Co-Defendant "intended," Defendant is without knowledge or information sufficient to for a belief as to the truth of the averments. Therefore, they are denied.

132. Denied as stated. MDHS, acting through John Davis and other MDHS Executives, instructed Defendant to cause MCEC to contract with Victory Sports Foundation to provide fitness and nutrition services at several fitness boot camps in counties around the State in support of MDHS's Families First initiative. Victory Sports Foundation provided services pursuant to this agreement.

133. Paragraph 133 is not directed at Defendant. Therefore, no response is required. If a response is required, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments. Therefore, they are denied.

134. Denied as stated. Defendant caused MCEC to contract with the MD Foundation and the Marcus Dupree Foundation on January 1, 2018 and February 20, 2018, respectively, for a variety of services relating to public appearances in support of MDHS's Families First initiative and lease of a Multi-Use Facility. Amounts paid to MD Foundation and Marcus Dupree Foundation pursuant to these contracts were for services rendered, and to be rendered, including Permissible TANF Expenditures.

135. Denied as stated. Defendant caused MCEC to contract with the MD Foundation and the Marcus Dupree Foundation on January 1, 2018 and February 20, 2018, respectively, for a variety of services relating to public appearances in support of MDHS's Families First initiative and lease of a Multi-Use Facility. Amounts paid to MD Foundation and Marcus Dupree Foundation pursuant to these contracts were for services rendered, and to be rendered, including Permissible TANF Expenditures.

136. Denied as stated. Defendant caused MCEC to contract with the MD Foundation and the Marcus Dupree Foundation on January 1, 2018 and February 20, 2018, respectively, for a variety of services relating to public appearances in support of MDHS's Families First initiative and lease of a Multi-Use Facility. Amounts paid to MD Foundation and Marcus Dupree Foundation pursuant to these contracts were for services rendered, and to be rendered, including Permissible TANF Expenditures.

137. Denied as stated. Governor Phil Bryant directed Defendant to provide funds to Brett Favre, and Defendant caused MCEC to contract with Favre Enterprises, Inc. in the amount of

\$1,100,000 in consideration for Favre speaking at events, keynote speaking, radio and promotional events, and business partner development. Favre performed services pursuant to this agreement, and payment for these services is a Permissible TANF Expenditure.

138. Denied as stated. Governor Phil Bryant directed Defendant to provide funds to Brett Favre, and Defendant caused MCEC to contract with Favre Enterprises, Inc. in the amount of \$1,100,000 in consideration for Favre speaking at events, keynote speaking, radio and promotional events, and business partner development. Favre performed services pursuant to this agreement, and payment for these services is a Permissible TANF Expenditure.

139. Denied.

140. Paragraph 140 is not directed at Defendant, and, therefore, no response is required. If a response is required, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments. Therefore, they are denied.

141. Denied.

142. Denied.

143. Denied.

144. Denied.

145. Denied.

146. Denied.

147. Denied.

148. Denied.

149. Paragraph 149 and the unnumbered paragraph that precedes it are not directed at Defendant, and, therefore, no response is required. If a response is required, Defendant is without

knowledge or information sufficient to form a belief as to the truth of the averments. Therefore, they are denied.

150. Paragraph 150 is not directed at Defendant, and, therefore, no response is required. If a response is required, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments. Therefore, they are denied.

151. Paragraph 151 is not directed at Defendant, and, therefore, no response is required. If a response is required, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments. Therefore, they are denied.

152. Paragraph 152 is not directed at Defendant, and, therefore, no response is required. If a response is required, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments. Therefore, they are denied.

153. Paragraph 153 is not directed at Defendant, and, therefore, no response is required. If a response is required, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments. Therefore, they are denied.

154. Paragraph 154 is not directed at Defendant, and, therefore, no response is required. If a response is required, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments. Therefore, they are denied.

155. Paragraph 155 is not directed at Defendant, and, therefore, no response is required. If a response is required, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments. Therefore, they are denied.

156. Paragraph 156 is not directed at Defendant, and, therefore, no response is required. If a response is required, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments. Therefore, they are denied.



157. Paragraph 157 is not directed at Defendant, and, therefore, no response is required. If a response is required, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments. Therefore, they are denied.

158. Paragraph 158 is not directed at Defendant, and, therefore, no response is required. If a response is required, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments. Therefore, they are denied.

159. Paragraph 159 is not directed at Defendant, and, therefore, no response is required. If a response is required, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments. Therefore, they are denied.

160. Paragraph 160 is not directed at Defendant, and, therefore, no response is required. If a response is required, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments. Therefore, they are denied.

161. Denied as stated. MDHS, acting through John Davis and other MDHS Executives, instructed Defendant to cause MCEC to contract with Soul City Hospitality LLC (“Soul City”) to lease premises located at Merchants Building Store #4 at the “Old Mississippi Farmers Market,” 352 East Woodrow Wilson Boulevard, Jackson, Mississippi 39216.

162. MDHS failed to attach a copy of the “Sublease Agreement,” the alleged contract at issue, to the Complaint, as required by Mississippi Rule of Civil Procedure 10(d). Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments. Therefore, they are denied.

163. Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments. Therefore, they are denied.

164. MDHS failed to attach a copy of the “Sublease Agreement,” the alleged contract at issue, to the Complaint, as required by Mississippi Rule of Civil Procedure 10(d). Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments. Therefore, they are denied.

165. Denied.

166. Paragraph 166 and Table 4 are denied.

167. Paragraph 167 including, without limitation, Subparts A-I are denied.

168. Denied.

169. Denied.

170. Denied.

171. Denied, including, without limitation, Subparts A-E.

172. Denied.

173. Denied.

174. Denied.

175. Paragraph 175 is not directed at Defendant, and, therefore, no response is required.

If a response is required, the averments are denied.

Defendant denies that MDHS is entitled to any relief whatsoever from Defendant, including, without limitation, the “Relief Requested” and Paragraphs (1)-(5) on pages 66 and 67

### **TWENTY-FIRST DEFENSE**

Defendant reasonably relied on then-Governor Phil Bryant, acting within his broad statutory authority as chief executive of the State, including authority over MDHS and TANF, and his extensive knowledge of Permissible TANF Expenditures from 12 years as State Auditor, four

years as Lieutenant Governor, and a number of years as Governor leading up to and including the relevant time period.

**TWENTY-SECOND DEFENSE**

Defendant affirmatively pleads applicable statutes of limitations and laches.

**TWENTY-THIRD DEFENSE**

MDHS has improperly joined 38 Defendants in this action involving claims based on over twenty different contractual agreements, most with different parties, and all covering different times, amounts, terms, obligations, legal issues, and defenses. Defendant, therefore, moves the Court to sever Defendants into separate actions consistent with Mississippi Rule of Civil Procedure 20 and applicable caselaw.

**TWENTY-FOURTH DEFENSE**

To the extent Defendant is held liable for the acts and/or omission of any Co-Defendants or third parties, Defendant is entitled to, and reserves the right to seek, contribution, indemnity, setoff, recoupment and all other forms of relief, without waiver of same.

AND NOW, having fully answered the Complaint, and having raised Affirmative Defenses, Defendant respectfully requests dismissal of the Complaint against Defendant, with prejudice, with all costs assessed to Plaintiff MDHS. Defendant requests all other relief the Court may deem appropriate.

THIS, the 11<sup>th</sup> day of July 2022.

Respectfully submitted,

CARROLL BUFKIN, PLLC

/s/ Thomas G. Bufkin

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Thomas G. Bufkin, MSB# 10810

On behalf of Nancy New

Of Counsel:

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**CERTIFICATE OF SERVICE**

I hereby certify that I have filed the above and foregoing *via* MEC, which automatically provides a copy to all counsel of record *via* electronic service.

This, the 11<sup>th</sup> day of July 2022.

/s/ Thomas G. Bufkin

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Thomas G. Bufkin