

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

**ANN SAUNDERS; SABREEN SHARRIEF;  
and DOROTHY TRIPLET**

**PLAINTIFFS**

**VS.**

**CIVIL ACTION NO. 25CH1:23-CV-00421**

**HONORABLE MICHAEL K. RANDOLPH, in his official  
capacity as Chief Justice of the Mississippi Supreme Court;  
ZACK WALLACE, in his official capacity as Circuit Clerk of the  
Circuit Court of Hinds County, Mississippi; and GREG SNOWDEN,  
in his official capacity as Director of the Administrative Office of Courts**      **DEFENDANTS**

**and**

**STATE OF MISSISSIPPI ex rel.  
ATTORNEY GENERAL LYNN FITCH**

**DEFENDANT-INTERVENOR**

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**MOTION TO DISMISS ZACK WALLACE AS A DEFENDANT**

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Defendant Zack Wallace, in his official capacity as Circuit Clerk of the Circuit Court of Hinds County, Mississippi (“Clerk Wallace”), through the undersigned counsel, moves to be dismissed from the case pursuant to Mississippi Rules of Procedure 8, 12(b)(6) and 21, and in support states as follows:<sup>1</sup>

1. Clerk Wallace must be dismissed because he is not a proper or necessary party and because the Complaint and the proposed unverified Amended Complaint fail to state a claim against him upon which relief can be granted. There is no official act that Clerk Wallace could take to perfect the effectuation of House Bill 1020 (“HB 1020”).<sup>2</sup> Further, arguably, all necessary defendants are already parties. In short, Clerk Wallace has no role in this lawsuit.

*First Nat’l Bank of Jackson v. Graham*, 137 So. 2d 193, 194 (Miss. 1962) (“One against whom

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<sup>1</sup> The grounds on which Clerk Wallace must be dismissed are addressed more fully in Clerk Wallace’s accompanying Memorandum of Authorities, which are incorporated here by reference.

<sup>2</sup> A true and correct copy of HB 1020, as obtained from the Mississippi Legislature’s website, legislature.ms.gov, is attached hereto as Exhibit “A”.

no relief is sought or from whom no relief should be granted is not a 'necessary and indispensable party' to suit." (quoting *Calcote v. Wise*, 68 So. 2d 477 (Miss. 1953)); *Calcote, supra* ("No one should be made a party defendant against whom no relief is prayed or grantable.").

2. Alternatively, Clerk Wallace must be dismissed because a court cannot grant coercive relief against Clerk Wallace. E.g., *See Fordice v. Bryan*, 651 So.2d 998, 1003 (Miss. 1995) (quoting *State ex rel. Seago v. Kirkpatrick*, 86 N.M. 359, 524 P.2d 975 (1974)) ("[N]o ... governmental official ... can exercise power beyond their constitutional authority."); *State v. McPhail*, 180 So. 387, 392 (Miss. 1938) ("The power to enforce the laws is not left as a matter of finality to the discretion of the local authorities or the local inhabitants but power is placed in the head of the executive department to act, in case of need, for the whole state") (quoting Code 1930, sec. 4817; Const. 1890, secs. 9, 123, 214 et seq., 217)).

3. Alternatively, Clerk Wallace must be dismissed because the Plaintiffs lack statutory or common-law authority to sue Clerk Wallace directly for any ministerial act imposed on him by HB 1020 in his official capacity as the Circuit Clerk for the Circuit Court of Hinds County, Mississippi.

Accordingly, Clerk Wallace moves for an order dismissing him from the case.

This, the 9th day of May, 2023.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I, Scherrie L. Prince, one of the attorneys for Defendant Zack Wallace, in his official capacity as Circuit Clerk of the Circuit Court of Hinds County, Mississippi, do hereby certify that I have this date caused to be filed with the Clerk of the Court a true and correct copy of the above and foregoing via the Court's MEC filing system, which sent notification of such filing to all counsel of record.

This, the 9th day of May, 2023.

/s/ Scherrie L. Prince  
SCHERRIE L. PRINCE