

**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, *ET AL.*

DEFENDANTS

**NANCY NEW’S ANSWER TO FIRST AMENDED COMPLAINT
AND AFFIRMATIVE DEFENSES**

Nancy Whitten New (“Defendant”), through undersigned counsel, files her Answer to First Amended Complaint and Affirmative Defenses¹ (“Answer”) in response to the First Amended Complaint (“Complaint”) [Dkt. 197] filed by the Mississippi Department of Human Services (“MDHS”).

GENERAL DENIALS

Pursuant to Mississippi Rule of Civil Procedure 8(b), Defendant generally denies each and every averment 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. 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”). Defendant generally denies all averments based on, related to, or derived from any contract not attached to the Complaint. Miss. R. Civ. P. 10(d). Defendant generally denies that MDHS is entitled to any relief whatsoever from Defendant including without

¹ Filed without waiver of Nancy New’s pending Motion to Dismiss.

limitation all relief requested in the Complaint and its Prayer for Relief (“Damages” or “Recovery”).

Defendant generally denies that MDHS Executive Director John Davis acted alone and/or outside the course and scope of his employment with MDHS, but that MDHS, at all times relevant hereto, acted through or at the direction of multiple state officials 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, MDHS Inspector General Hadley Eisenberger, Executive Assistant Zola Haralson, and dozens of other MDHS executives, attorneys and staff (collectively, “MDHS Executives”).

Each reference to MDHS in this Answer incorporates and includes the MDHS Executives who, on behalf of MDHS, directed, approved, facilitated and/or furthered, in whole or in part, the expenditures alleged in the First Amended Complaint.

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 bringing claims or recovering expenditures that MDHS directed, approved, facilitated, and/or furthered pursuant to its broad statutory authority to interpret grant guidelines and expend grant funds.

THIRD DEFENSE

MDHS is estopped from defining permissible TANF expenditures more narrowly than in the past.

FOURTH DEFENSE

MDHS is estopped from claiming expenditures in the Complaint are impermissible when MDHS directed, approved, facilitated, or furthered these expenditures and similar expenditures in the past.

FIFTH DEFENSE

MDHS must prove the source of funds for each allegedly impermissible expenditure and is estopped from applying one grant contract's terms to funds derived from another grant contract or some other source of funds.

SIXTH DEFENSE

MDHS's breach of contract claims fail because MDHS's contracts are ambiguous. For example, MDHS in its Complaint alleges contractual terms that do not appear in any MDHS contract at issue.

SEVENTH DEFENSE

MDHS contractually authorized Defendant to spend grant funds within each “scope of work,” as interpreted by MDHS in its exclusive authority over such funds. MDHS cannot unilaterally revise its contracts *ex post facto*.

EIGHTH DEFENSE

Defendant acted under duress as a result of financial and other hardships imposed by MDHS by requiring Defendant to advance funds for unbudgeted special projects, by withholding MCEC’s reimbursements, and by directing Defendant to enter into and fund contracts later abandoned by MDHS.

NINTH DEFENSE

Defendant is not liable for any illegal actions of MDHS, the MDHS Executives, or others.

TENTH DEFENSE

If found liable to MDHS, Defendant is entitled to recoup from MDHS the full amount awarded based on MDHS’s conduct, and the conduct of the MDHS Executives, directing, approving, facilitating, and/or furthering the allegedly improper expenditures.

ELEVENTH DEFENSE

If found liable to MDHS, Defendant is entitled to contribution from MDHS, the MDHS Executives, and all other persons and entities that, in whole or in part, directed, approved, facilitated, and/or furthered the allegedly improper expenditures.

TWELFTH DEFENSE

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

THIRTEENTH DEFENSE

MDHS's negligent acts, omissions, and/or intentional conduct, through the MDHS Executives, bar any right MDHS may have had to Recover.

FOURTEENTH DEFENSE

MDHS was contributorily negligent in directing and/or approving expenditures of funds alleged in the Complaint.

FIFTEENTH DEFENSE

Defendant is entitled to setoff from MDHS based on its conduct, which directly and proximately caused and/or contributed to any Damages.

SIXTEENTH DEFENSE

MDHS has waived its right to pursue Recovery from Defendant.

SEVENTEENTH DEFENSE

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

EIGHTEENTH DEFENSE

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

ANSWER

1. Defendant admits that:
 - a. MDHS is an Agency of the State of Mississippi;
 - b. Temporary Assistance for Needy Families is a federal program enacted expressly to provide each state greater flexibility in spending its federal "welfare" funds;

c. TANF has four broad objectives, but each state is allowed to choose how to spend its TANF funds to further these objectives;

d. each state is required to have a TANF State Plan describing how it will spend its TANF funds, but no federal approval of any TANF State Plan is required;

e. MDHS drafts Mississippi's TANF State Plans;

f. MDHS is the single State Agency with authority to administer the TANF Program, and to make rules and regulations governing the administration of the TANF Plan;

g. MDHS's Executive Director is vested with broad authority and discretion to interpret the TANF State Plan and spend TANF and other grant funds;

h. Mississippi's governor appoints MDHS's Executive Director, who serves at the will and pleasure of the governor; and

i. at all times relevant to the expenditures alleged in the Complaint, Phil Bryant was Mississippi's Governor and John Davis was Bryant's MDHS Executive Director.

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

2. The averments are not directed at Defendant.

3. Defendant admits she may be served through undersigned counsel. The remaining averments are denied.

4. The averments are not directed at Defendant.

5. The averments are not directed at Defendant.

6. Defendant admits that she may be served through undersigned counsel. The remaining averments are denied.

7. The averments are not directed at Defendant.

8. The averments are not directed at Defendant.
9. The averments are not directed at Defendant.
10. The averments are not directed at Defendant.
11. The averments are not directed at Defendant.
12. The averments are not directed at Defendant.
13. The averments are not directed at Defendant.
14. The averments are not directed at Defendant.
15. The averments are not directed at Defendant.
16. The averments are not directed at Defendant.
17. The averments are not directed at Defendant.
18. The averments are not directed at Defendant.
19. The averments are not directed at Defendant.
20. The averments are not directed at Defendant.
21. The averments are not directed at Defendant.
22. The averments are not directed at Defendant.
23. The averments are not directed at Defendant.
24. The averments are not directed at Defendant.
25. The averments are not directed at Defendant.
26. The averments are not directed at Defendant.
27. The averments are not directed at Defendant.
28. The averments are not directed at Defendant.
29. The averments are not directed at Defendant.
30. The averments are not directed at Defendant.

31. The averments are not directed at Defendant.
32. The averments are not directed at Defendant.
33. The averments are not directed at Defendant.
34. The averments are not directed at Defendant.
35. The averments are not directed at Defendant.
36. The averments are not directed at Defendant.
37. The averments are not directed at Defendant.
38. The averments are not directed at Defendant.
39. The averments are not directed at Defendant.
40. The averments are not directed at Defendant.
41. The averments are not directed at Defendant.
42. The averments are not directed at Defendant.
43. The averments are not directed at Defendant.
44. The averments are not directed at Defendant.
45. The averments are not directed at Defendant.
46. The averments are not directed at Defendant.
47. The averments are not directed at Defendant.
48. Defendant has no obligation to answer Legal Conclusions. The averments are denied.
49. Denied.
50. Defendant has no obligation to answer Legal Conclusions. The averments are denied.

51. Defendant admits Congress created the TANF program through the “Personal Responsibility and Work Opportunity Reconciliation Act of 1996” and that 42 U.S.C. §601(a) describes TANF’s broad objectives consistent with its “purpose” which is “to increase the flexibility of the States in operating” the TANF program. Defendant denies that TANF State Plans must be “approved” by federal authorities. The remaining averments are denied.

52. Denied.

53. Defendant admits that MDHS has issued TANF State Plans describing how Mississippi elected to spend its TANF funds, and that MDHS, acting through the MDHS Executives, had authority to interpret TANF State Plans to determine permissible TANF expenditures. Defendant denies that MDHS “achieved federal approval of or acquiescence in” TANF State Plans. The remaining averments are denied.

54. Denied.

55. Denied.

56. Denied.

57. Denied.

58. The regulations speak for themselves. Any averments are denied.

59. The regulations speak for themselves. Any averments are denied.

60. The regulations speak for themselves. Any averments are denied.

61. The regulations speak for themselves. Any averments are denied.

62. Denied.

63. Denied.

64. Denied.

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

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

67. Denied.

68. Denied.

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

70. Denied.

71. Denied.

72. MDHS did not attach any contracts to its First Amended Complaint. Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments. Therefore, they are denied.

73. MDHS did not attach any contracts to its First Amended Complaint. Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments. Therefore, they are denied.

74. MDHS did not attach any contracts to its First Amended Complaint. Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments. Therefore, they are denied.

75. Denied.

76. Denied. Defendant affirmatively states that TANF funds were not the sole source of MCEC's funding, which included Mississippi Legislative appropriations; grants other than TANF from the Mississippi Department of Human Services; grants from the Mississippi

Department of Education, the Mississippi Department of Health, the Mississippi Department of Rehabilitative Services, and the U.S. Department of Labor; and private funds through fundraising, Bingo, consulting, and various corporate partners.

77. Denied.

78. Denied.

79. Denied.

80. Denied.

81. Denied.

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

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

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

85. Defendant admits she met with Brett Favre in 2017 regarding funding for the volleyball facility/wellness center at USM. Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining averments. Therefore, they are denied.

86. Defendant denies that “John Davis suggested that MDHS could provide \$4 million in funding for the construction of the volleyball facility.” Defendant admits the individuals listed attended a meeting at USM on July 24, 2017, in which John Davis committed \$4 million to lease a proposed volleyball facility/wellness center at USM for Families First programs. Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining averments. Therefore, they are denied.

87. Denied.

88. Defendant admits the quoted language is similar to text messages Defendant received. Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments. Therefore, they are denied.

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

90. Defendant admits the quoted language is similar to text messages Defendant received. The remaining averments are denied.

91. Defendant denies the sublease was a “guise” and denies that individuals listed in paragraph 91 were the only ones who “agreed” that MDHS could fund the volleyball facility/wellness center. Defendant admits that a number of state agencies, private entities, and individuals “agreed” for MDHS to fund the volleyball facility/wellness center project including Governor Bryant, who told John Davis and Defendant to fund the project; MDHS, which committed \$4 million, provided \$5 million, and later provided an additional \$1.1 million to the project; MCEC, which contracted with the USM Athletic Foundation and Favre Enterprises; the Mississippi Office of the Attorney General, the Mississippi Institutions of Higher Learning, and the University of Southern Mississippi, which approved the sublease; the USM Athletic Foundation, which entered into the sublease; and all of their respective legal counsel. The remaining averments are denied.

92. Defendant admits that Governor and Mrs. Bryant wanted a “palliative care” center built in Jackson, Mississippi, so MDHS created a lease structure to use grant funds to pay for construction. Defendant denies that Garrig Shields provided any “assistance” or advice concerning the “palliative care” lease structure. Defendant admits that a sublease was used to secure the right

to use facilities at USM, including the proposed volleyball facility/wellness center, for Families First programs. Further, Defendant incorporates by reference her response to paragraph 91. Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining averments. Therefore, they are denied.

93. Defendant admits that MDHS sought to establish a greater presence on college campuses in Mississippi and, in furtherance of this goal, awarded grants to college athletic departments and, through MCEC, sought to lease space at USM. The remaining averments are denied.

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

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

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

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

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

99. Defendant admits that MDHS provided MCEC \$5 million in two installments and that MCEC, as instructed by MDHS, paid \$5 million to the Foundation to acquire the right to use facilities at USM, including a proposed volleyball facility/wellness center, for Families First programs. The remaining averments are denied.

100. Defendant admits that MDHS chose to fund certain projects in advance including a sublease acquiring the right to use facilities at USM, including a proposed volleyball facility/wellness center, for Families First programs. The remaining averments are denied.

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

102. Defendant admits that USM did not accept immediately the \$4 million that MDHS had committed to the volleyball facility/wellness center project, so Brett reached out to Governor Bryant. Defendant affirmatively states, Governor Bryant called me and said he liked the volleyball project and wanted me to provide the additional funds that Brett needed. Brett and I had discussed the possibility of him promoting Families First programs as a way for him to provide additional funds for the volleyball facility/wellness center. MCEC entered into a promotional services agreement with Favre Enterprises, and MDHS provided \$1.1 million to fund the agreement. Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining averments. Therefore, they are denied.

103. Denied.

104. Defendant admits that Governor Bryant told her to provide additional funds for the volleyball facility/wellness center, MCEC contracted with Favre Enterprises, MDHS provided MCEC \$1.1 million to fund the agreement, Favre provided services under the agreement, and, based on information and belief, Favre would have continued to promote Families First programs. The remaining averments are denied.

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

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

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

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

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

110. Denied.

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

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

115. Denied.

116. Defendant admits the individuals listed in paragraph 116 attended a meeting at Brett Favre's home on January 2, 2019, but denies the meeting was a "sales pitch ... to the News and Davis concerning a substantial stock investment in Prevacus."

Defendant affirmatively states, Jake Vanlandingham contacted me and said he, Brett Favre and Governor Bryant were working together to fund a concussion drug company called Prevacus. Jake knew that Governor Bryant, John Davis and I had funded the volleyball facility/wellness

center at USM through MDHS and MCEC. Jake told me that Prevacus needed \$750,000 to complete the first phase of drug trials. He said they would need another \$1 million later. I agreed to tell John Davis about Prevacus, and John spoke with Governor Bryant. This all occurred in the last few days of December 2018. After his conversation with the Governor, John agreed to meet with Jake on January 2, 2019. The weather was bad, so we ended up meeting at Brett's house. I understood the purpose of the meeting was for John to hear about Prevacus, so he could decide whether MDHS should provide funding. I later learned the decision to fund Prevacus through MDHS had already been made. At the meeting, John was introduced to everyone as MDHS Executive Director. Jake made a few introductory comments and John committed \$2 million to Prevacus. After the meeting, I asked John why he had committed so much funding so quickly. John said he had spoken with Governor Bryant and the Governor wanted Prevacus funded. John said the Governor was "all about this happening." John told me that Jake would provide a contract and funding would go through MCEC. In the contract Jake provided, MDHS, in exchange for its \$2 million commitment, got the right to choose where Prevacus would locate its Mississippi manufacturing facility. John told me the facility would be located at Tradition.

Defendant affirmatively states, the only "substantial stock investment in Prevacus" that I am aware of is the one Governor Bryant told me about during a Christmas party at the Mansion in 2019. The Governor had been funding Prevacus through MDHS and MCEC for about a year, so it was not unusual for Brett, or Jake, or Prevacus to come up in conversations with the Governor. At the Christmas party, Jake's name came up. Governor Bryant got excited and told me that Jake had offered him "half the company," which I understood to mean a substantial amount of stock, but the Governor said he was going to have to wait until he was out of office to accept. The remaining averments are denied.

117. Defendant admits that John Davis was introduced at the meeting as MDHS Executive Director. The remaining averments are denied.

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

119. Denied. Defendant incorporates her response to Paragraph 116.

120. Denied. Defendant incorporates her response to Paragraph 116.

121. Denied. Defendant incorporates her response to Paragraph 116.

122. Denied. Defendant incorporates her response to Paragraph 116.

123. Denied. Defendant incorporates her response to Paragraph 116.

124. Denied. Defendant incorporates her response to Paragraph 116.

125. The plea agreement speaks for itself. Any averments are denied.

126. Denied. Defendant incorporates her response to Paragraph 116.

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

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

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

130. Denied.

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

132. The contract speaks for itself. Any averments are denied.

133. The contract speaks for itself. Any averments are denied.

134. The contract speaks for itself. Any averments are denied.

135. The contract speaks for itself. Any averments are denied.

136. Defendant admits that MDHS Executive Director John Davis forwarded a Victory Sports contract to MCEC with instructions to enter into the contract immediately. Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining averments. Therefore, they are denied.

137. Denied.

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

139. Defendant admits that MDHS approved the Victory Sports contract for purposes MDHS determined were lawful. Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining averments. Therefore, they are denied.

140. The plea agreement speaks for itself. Any averments are denied.

141. Defendant admits that MDHS approved hiring Marcus Dupree to promote its Families First programs, which MDHS determined to be a lawful purpose. The remaining averments are denied.

142. Defendant admits that MCEC entered into a lease agreement with the Marcus Dupree Foundation for \$371,000. The remaining averments are denied.

143. Defendant admits that Marcus Dupree elected to receive a portion of his compensation in the form of a down-payment on his home. Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining averments. Therefore, they are denied.

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

145. Defendant admits that Marcus Dupree elected to receive a portion of his compensation in the form of monthly payments. Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining averments. Therefore, they are denied.

146. Denied. Defendant affirmatively states, Marcus did use the property for Families First programs, and, based on information and belief, would have continued to do so.

147. Denied.

148. Admitted.

149. Denied.

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

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

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

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

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

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

156. Defendant admits that she was instructed by MDHS to contract with Priceless Ventures for a purpose that MDHS determined was lawful. The remaining averments are denied.

157. Defendant admits that she was instructed by MDHS to contract with Priceless Ventures for a purpose MDHS determined was lawful. The remaining averments are denied.

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

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

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

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

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

165. Defendant admits that Brett DiBiase was an MDHS employee for some period of time in 2017. Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining averments. Therefore, they are denied.

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

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

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

169. Defendant admits that she and Christi Webb were instructed by John Davis to hire MDHS employee Brett DiBiase at an annual salary of \$250,000. Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining averments. Therefore, they are denied.

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

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

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

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

174. Denied.

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

176. Defendant admits that John Davis arranged for Brett DiBiase to attend a rehabilitation center called Rise in Malibu. Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining averments. Therefore, they are denied.

177. Defendant admits that John Davis instructed MCEC to pay Rise in Malibu \$160,000. Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining averments. Therefore, they are denied.

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

179. Defendant admits that John Davis occasionally directed MCEC staff to pay certain expenses and that MDHS staff occasionally charged Davis's travel expenses to Defendant's American Express. The remaining averments are denied.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

210. Defendant admits that she was instructed by MDHS to contract with NCC Ventures for a purpose that MDHS determined was lawful. Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining averments. Therefore, they are denied.

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

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

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

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

215. Denied.

216. Denied.

217. Denied.

218. Defendant admits that she was instructed by MDHS to contract with Brian Jeff Smith for a purpose that MDHS determined was lawful. Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining averments. Therefore, they are denied.

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

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

221. Defendant admits that she was instructed by MDHS to enter into leases with JTS Enterprises, LLC for purposes MDHS determined were lawful. The remaining averments are denied.

222. Defendant admits the property leased from JTS required renovation. The remaining averments are denied.

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

224. Denied.

225. Denied.

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

227. Denied. Defendant affirmatively states that she was instructed by MDHS to contract with Austin Smith for purposes that MDHS determined were lawful, and that Austin Smith performed services pursuant to these contracts. The remaining averments are denied.

228. Denied.

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

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

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

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

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

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

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

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

237. Defendant admits she was instructed by MDHS to contract with Austin Smith or his entity for purposes that MDHS determined were lawful, and that Austin Smith performed services pursuant to these contracts. The remaining averments are denied.

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

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

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

241. Defendant admits that New Learning Resources, Inc. (“NLRI”) received MDHS grant funds for purposes that MDHS determined were lawful. Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining averments. Therefore, they are denied.

242. Defendant affirmatively states that MDHS, through its MDHS Executives and monitors; the State Auditor's Office and its auditors; and MCEC's Single Auditor and accountants were aware of, had access to, and approved MCEC's and NLRI's management, finances, and accounting. Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining averments. Therefore, they are denied.

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

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

245. Denied.

246. Defendant admits that NLRI received a \$700,000 grant from MDHS for purposes that MDHS determined were lawful. Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining averments. Therefore, they are denied.

247. Denied.

248. Denied.

249. Admitted.

250. Denied.

251. Defendant admits that MCEC paid Magnolia Strategies, LLC ("Magnolia") \$250,000 in 2017, \$125,000 in 2018, and \$125,000 in 2019 for professional services that MDHS determined were lawful and that Magnolia provided professional services in consideration for these payments. The remaining averments are denied.

252. Defendant admits that Jess New was employed by a Jackson law firm, which performed legal services for MCEC, and that he transitioned his practice to Magnolia where he continued to perform legal services for MCEC. The remaining averments are denied.

253. Denied.

254. Denied.

255. Denied.

256. Denied.

257. Denied.

258. Denied.

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

260. Defendant admits that MDHS sought to develop virtual reality capabilities in support of its Families First programs, which MDHS was a lawful use of grant funds. The remaining averments are denied.

261. Defendant admits that MDHS sought to develop virtual reality capabilities in support of its Families First programs including at 750 North State Street, which MDHS deemed a lawful use of grant funds. Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining averments. Therefore, they are denied.

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

263. Denied.

264. Denied.

265. Denied.

266. The plea agreement speaks for itself. Any averments are denied.

267. The plea agreement speaks for itself. Any averments are denied.

268. Defendant admits that Inside Capitol is affiliated with William Longwitz. Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining averments. Therefore, they are denied.

269. Defendant admits that Will Longwitz performed services for MCEC for which Inside Capitol was paid. Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining averments. Therefore, they are denied.

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

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

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

273. Denied.

274. Denied.

275. Defendant admits that she was instructed by MDHS to enter into a lease with Soul City Hospitality for a purpose that MDHS determined was lawful, but that MDHS abandoned its plans to pursue the projects planned for this location in favor of its 750 North State Street location. Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining averments. Therefore, they are denied.

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

277. Defendant admits that she was instructed by MDHS to accelerate lease payments to Soul City Hospitality. The remaining averments are denied.

278. Denied. Defendant affirmatively states, “workforce training” and health and nutrition programs such as a “food aggregation and distribution” program are permissible grant expenditures.

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

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

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

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

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

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

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

286. The Code section speaks for itself. Any averments are denied.

287. Denied.

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

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

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

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

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

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

294. The Code section speaks for itself. Any averments are denied.

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

296. Admitted.

297. Denied.

298. Denied.

299. Denied.

300. Denied.

301. Denied.

302. Denied.

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

304. Denied.

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

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

307. Denied.

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

309. Denied.

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

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

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

313. Denied.

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

315. Denied.

316. Denied.

317. Denied.

318. Denied.

319. Denied.

320. Denied.

321. Denied.

322. Denied.

323. Denied.

324. Denied.

325. Denied.

326. Denied.

327. Denied.

328. Denied.

329. Denied.

330. Denied.

331. Denied.

332. Denied.

333. Denied.

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

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

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

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

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

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

340. Denied.

341. Denied.

342. Denied.

343. Denied.

344. Denied.

345. Denied.

346. Denied.

347. Denied.

348. Denied.

349. Denied.

350. The incorporated averments are denied.

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

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

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

354. Denied.

355. Denied.

356. Denied.

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

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

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

360. Denied.

361. Denied.

362. Denied.

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

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

365. Defendant admits that Williams Weiss Hester performed Single Audits for MCEC and issued findings that MCEC's management and accounting lacked no internal controls and had no compliance deficiencies. The remaining averments are denied.

366. Denied.

367. The incorporated averments are denied.

368. Denied.

369. Denied.

370. Denied.

371. Denied.

372. Denied.

373. Denied.

374. Denied.

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

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

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

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

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

380. Denied.

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

382. Denied.

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

384. Denied.

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

386. Denied.

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

388. Denied.

389. Denied.

390. Denied.

391. Denied.

392. Denied.

393. Denied.

394. Denied.

395. Denied.

396. Denied.

397. Denied.

398. The incorporated averments are denied.

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

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

401. Defendant denies that expenditures in the Complaint were donations. Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining averments. Therefore, they are denied.

402. Denied.

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

404. Denied.

405. Denied.

406. Denied.

407. Defendant denies that expenditures in the Complaint were donations. Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments. Therefore, they are denied.

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

409. Denied.

410. Denied.

411. Denied.

412. Defendant admits that WWH owed MCEC a duty to conduct Single Audits consistent with the standard of care applicable to a certified public accountants, generally, and certified public accountants qualified to perform Single Audits, specifically. The remaining averments are denied.

413. Defendant admits that WWH was aware that MCEC received federal grant funds from MDHS in excess of \$750,000 annually, which required MCEC to undergo annual Single Audits. The remaining averments are denied.

414. Defendant admits that WWH breached the standard of care in performing MCEC's audits and accounting. The remaining averments are denied.

415. Defendant admits that WWH breached the standard of care in performing MCEC's audits and accounting. Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining averments. Therefore, they are denied.

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

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

418. The incorporated averments are denied.

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

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

421. Denied.

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

423. Denied.

424. Denied.

425. Denied.

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

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

428. Denied.

429. Denied.

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

431. Defendant admits that she was instructed by MDHS to contract with the entities and persons listed for services that MDHS determined were lawful. The remaining averments are denied.

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

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

434. Denied.

435. Defendant admits that TANF is a federal welfare program expressly intended to provide each state flexibility in spending its TANF funds, and this flexibility includes the right to define and interpret permissible TANF expenditures broadly under a TANF State Plan. The remaining averments are denied.

436. Denied.

437. Denied.

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

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

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

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

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

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

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

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

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

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

448. Denied.

449. Denied.

450. Denied.

451. Denied.

452. Denied.

453. Denied.

454. Denied.

455. Denied.

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

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

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

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

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

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

462. Denied.

463. Denied.

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

465. Denied.

466. Denied.

Defendant denies that MDHS is entitled to any relief whatsoever from Defendant, including, without limitation, the relief requested in the “Prayer for Relief” and all of its paragraphs and subparts.

NINETEENTH DEFENSE

Defendant affirmatively pleads applicable statutes of limitations and laches.

TWENTIETH DEFENSE

MDHS has improperly joined 38 Defendants together in this action despite claims based on different contractual relationships, involving different grants, at different times, with different parties, in different amounts, containing different terms, different legal issues, and different defenses. Defendant, therefore, respectfully moves the Court to sever the Defendants or groups of Defendants into separate actions for purposes of trial to avoid jury confusion, undue prejudice to any Defendant, and irreparable harm.

TWENTY-FIRST DEFENSE

Defendant reasonably relied on, and had a right to rely on, Single Audits performed by WWH; the State Auditor's audits, and MDHS's audits of MCEC. Specifically, but without limitation, WWH's audits concluded that MCEC had over \$6 million in unrestricted funds available to spend on projects directed by MDHS, and that MCEC had no compliance deficiencies or lack of internal controls.

TWENTY-SECOND DEFENSE

To the extent MDHS and/or any of the MDHS Executives have immunity under Miss. Code Ann. 11-46-9 or otherwise, MCEC and its directors, officers and employees are entitled to the same immunity as a "political subdivision" or "instrumentality of the state" for purposes of the Mississippi Tort Claims Act. *See Bolivar Leflore Med. Alliance, LLP v. Williams*, 938 So.2d 1222, 1227 (Miss. 2006) (holding, "[A] private corporate entity which is responsible for governmental activities may properly be regarded as a political subdivision under" the Mississippi Tort Claims Act); *see also Wesley Health Sys., LLC v. Forrest County Bd. Of Supervisors*, 2014 U.S. Dist. LEXIS 7764, * 55 (S.D. Miss. Jan. 22, 2014).

TWENTY-THIRD DEFENSE

MDHS is estopped from undermining Mississippi's legislative policy decisions codified in Miss. Code Ann. §43-17-1(4), as expressed in Mississippi's TANF State Plans. "The function of creating a public policy is primarily one to be exercised by the Legislature and not by the courts." *Miss. Baptist Hosp. v. Holmes*, 55 So. 2d 142, 152 (Miss. 1951)

TWENTY-FOURTH DEFENSE

In the event Defendant is found liable to MDHS, Defendant's negligence, if any, was passive as compared to the active negligence of MDHS, acting through the MDHS Executives.

TWENTY-FIFTH DEFENSE

Defendant cannot be held liable for non-delegable statutory duties imposed on MDHS with regard to Mississippi's TANF program.

TWENTY-SIXTH DEFENSE

Defendant affirmatively pleads the doctrine of comparative fault to the extent MDHS's alleged Damages were caused by the negligence of persons and/or entities other than Defendant.

TWENTY-SEVENTH DEFENSE

Defendant is not liable for the acts of third-parties not under Defendant's control and is not liable for any Damages allegedly flowing therefrom.

TWENTY-EIGHTH DEFENSE

MDHS failed to mitigate its Damages, if any, and failed to give Defendant an opportunity to cure including, without limitation, opportunities to cure afforded by MDHS's own policies and administrative remedies.

TWENTY-NINTH DEFENSE

In the event MDHS is awarded damages against Defendant, Defendant is entitled by “recoupment” to reduce the amount of MDHS’s Recovery due to MDHS’s own negligence, breaches of the duties of good faith and fair dealings, and breaches of contract.

Defendant Nancy Whitten New, having answered the First Amended Complaint fully, paragraph by paragraph, requests dismissal of the First Amended Complaint, with prejudice, with all costs assessed to MDHS. Defendant further requests all relief the Court may deem appropriate.

Dated: February 26, 2024

Respectfully Submitted,

NANCY NEW

By her attorneys,

Carroll Bufkin, PLLC

/s/ Thomas G. Bufkin

By: Thomas G. Bufkin, MSB#10810

Thomas G. Bufkin
CARROLL BUFKIN, PLLC
1076 Highland Colony Pkwy., Ste. 125
Ridgeland, Mississippi 39157
601.982.5011
tgb@carrollbufkin.com

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.

Dated: February 26, 2024

/s/ Thomas G. Bufkin

Thomas G. Bufkin, MSB#10810