

**IN THE CHANCERY COURT OF LAFAYETTE COUNTY, MISSISSIPPI**

**ROBERT SULLIVANT SR. PLAINTIFF**

**v.**

**ROBERT SULLIVANT JR. DEFENDANT**

**CAUSE NO. 2021-CV-612 (W)**

**ROBERT SULLIVANT JR. THIRD PARTY PLAINTIFF**

**v.**

**ROBERT SULLIVANT SR. and  
EVELYN STEVENS THIRD PARTY CO-DEFENDANTS**

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**MOTION TO STRIKE AND FOR ATTORNEYS' FEES  
PURSUANT TO MISSISSIPPI RULE OF CIVIL PROCEDURE 11(b)**

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COMES NOW Dr. Frank Perkins, Forensic Psychiatrist, by and through his attorney, and moves to strike the Interrogatories and Production to Dr. Frank Perkins which notice of service was filed on September 16, 2023, and for sanctions in the form of attorney's fees pursuant to Miss. R. Civ. P. 11(b). In support thereof, Dr. Perkins would show:

1. Notice of service for interrogatories and production of documents to Dr. Frank Perkins was filed on September 15, 2023, and copied to Swayze Alford and Kayla Ware. The discovery requests were not submitted to the undersigned counsel of record for Dr. Perkins, nor was a certificate of service of the notice sent to counsel of record for Dr. Perkins, as required by Miss. R. Civ. P. 5(a).

2. The Court stated in its order of August 31, 2023, that the Court has already heard and resolved the issues in its May 17, 2023, decision (Doc. 143).

3. The Uniform Chancery Court Rules do not provide for the post-trial discovery Robert Sullivant Jr. is engaging in, and "additional discovery may be allowed with leave of court

upon written circumstances setting forth good cause for extension.” Mississippi Uniform Chancery Court Rules, Rule 1.10. Robert Sullivant Jr. has neither sought nor obtained leave of the Court for engaging in discovery after the Court has ruled.

4. In *Bell v Stevenson*, 158 So.3d 1229, 1234 (Miss. App. 2015) affirmed the Court’s denial of a motion to compel responding to post-trial discovery where the requests were propounded after discovery had expired and noted: “This Court may only reverse the trial judge’s ruling regarding discovery if it finds that there has been an abuse of discretion.” *Boutwell v. Boutwell*, 829 So.2d 1216, 1223 (¶ 30) (Miss. 2002). Further, “[O]ur trial judges are afforded considerable discretion in managing the pretrial discovery process in their courts. And they are given wide latitude in fashioning remedies for discovery violations.” *Vaughn v. Vaughn*, 56 So.3d 1283, 1286 (¶ 7) (Miss. App. 2011). It was within the trial court’s discretion to deny Bell’s motion to compel discovery. The trial court did not abuse its discretion.”

5. “[P]ro se parties are held to the same standards of procedure as attorneys ...” *Stroud v. State*, 839 So.2d 610 (Miss. App. 2003).

6. The additional discovery taken without leave of court only served to needlessly increase the costs of litigation to the represented parties in the form of attorneys’ fees, and as such is a violation of Miss. Rule Civ P. 11. (b).

7. The Court should enter an order proscribing and enjoining any discovery related to its prior ruling.

8. “If any party files a motion or pleading which, in the opinion of the court, is frivolous or is filed for the purpose of harassment or delay, the court may order such a party, or his attorney, or both, to pay to the opposing party or parties the reasonable expenses incurred by such other parties and by their attorneys, including reasonable attorneys’ fees.” Miss. R. Civ. P. 11, Signing of Pleadings and Motions (Mississippi Rules of Civil Procedure (2023 Edition)).

WHEREFORE, premises considered, Dr. Perkins by and through his attorney moves to strike the Interrogatories and Production to Dr. Frank Perkins and moves for sanctions in the form of attorney's fees pursuant to Miss. R. Civ. P. 11(b).

Respectfully submitted, this the 28<sup>th</sup> day of September, 2023.

/s/ J. Hale Freeland  
J. HALE FREELAND, MS Bar. No. 5525

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**CERTIFICATE OF SERVICE**

I, J. Hale Freeland, attorney for Dr. Frank Perkins in this matter, hereby certify that I have on this date sent a true and complete copy of the above and foregoing *Motion to Strike and for Attorneys' Fees* by electronic mail to the following:

Swayze Alford Esq.  
Attorney at Law  
[salford@swayzealfordlaw.com](mailto:salford@swayzealfordlaw.com)

Robert Sullivant Jr.  
[robert@steelandbarn.com](mailto:robert@steelandbarn.com)

This, the 28<sup>th</sup> day of September, 2023.

/s/ J. Hale Freeland  
J. HALE FREELAND