

IN THE CHANCERY COURT OF LAFAYETTE COUNTY, MISSISSIPPI

PHYLLIS MARIE CROWDER

PLAINTIFF

VERSUS

CAUSE NO: 2016-422W

MATTHEW OLIVER REARDON

DEFENDANT

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MOTION TO DISMISS

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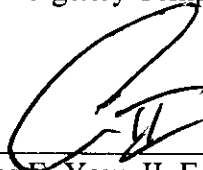
Comes Now the Defendant by and through his counsel of record, Charles E. Yow, II, and hereby moves this honorable court to dismiss the Plaintiff's Petition for Emergency Temporary Relief Without Notice pursuant to MRCP Rule 12(b)(1) or in the alternative MRCP Rule 12(b)(6) and would state as follows in support of said motion, to wit:

1. On May 1, 2017 Counsel for the Plaintiff filed a Petition for Emergency Temporary Relief Without Notice in the Chancery Court of Lafayette County pursuant to Mississippi Code Annotated § 93-21-1 et seq. seeking an order granting Protection from Abuse.
2. This honorable court has subject matter to hear said Petitions brought under Mississippi Code Annotated § 93-21-5(1) so long as said Petition complies with the requirements laid out in the statute.
3. Plaintiff's Petition for Emergency Temporary Relief Without Notice is void on its face as it fails to comply with the statutory requirement laid out in § 93-21-9(8) Miss. Code. Ann. which states that "Every petition shall be signed by the petitioner under oath that the facts and circumstances contained in the petition are true to the best

knowledge and belief of the petitioner.”

4. Although Plaintiff signed the Petition, only the attorney for the Plaintiff provided a sworn statement duly certified by a notary public and in point of fact the Plaintiff's statement was not sworn, dated or acknowledged by a notary public in a manner that would comply with in § 93-21-9 (8) Miss. Code. Ann. as such Plaintiff failed to provide a sworn statement which complies with the code.

WHEREFORE PREMISES CONSIDERED, Counsel for the Defendant moves this honorable court to dismiss Plaintiff's Petition for Emergency Temporary Relief.



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#### CERTIFICATE OF SERVICE

I hereby certify that the above and foregoing notice has been hand delivered to all counsel of record in open court and by placing a copy of the same in the United States mail, postage prepaid and properly addressed to:

MONA T. PITTMAN, ESQ.  
P.O. BOX 2958  
OXFORD, MS 38655

this 9th day of MAY, 2017.



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Charles E. Yow, II, Esq.