

## *The Trellis Green Lawsuit: A Decade Later*

It has been about 12 years since then-assistant professor of economics Trellis G. Green filed suit against the University of Southern Mississippi and the Mississippi IHL, and a decade since that suit was settled. Given the current state of affairs in USM's College of Business, it seems fitting that USMPRIDE.COM presents a series on the Green lawsuit. This is part 5 in that series.

### **Pre-Trial Documentation**

The previous installment in this series concluded with a look at Counts I through V in Green's lawsuit. This issue continues with Green's "Request for Relief." That documentation begins below:

#### REQUEST FOR RELIEF

WHEREFORE, PREMISES CONSIDERED, the Plaintiff alleges that he has been damaged significantly and prays for actual and/or compensatory damages, both jointly and severally, in the amount of Three Hundred Thousand Dollars (\$300,000.00).

In addition to the actual, compensatory damages, Plaintiff respectfully contends that he is also entitled to punitive damages, both jointly and severally, in the amount of Five Hundred Thousand Dollars (\$500,000.00).

Moreover, injunctive relief is respectfully requested so that Plaintiff is promoted.

As the screen above indicates, Green sought actual and/or compensatory damages in the amount of \$300,000. Green also sought punitive damages in the amount of \$500,000, as well as the "injunctive relief" of promotion to associate professor of economics.

Plaintiff also prays for reasonable Attorney's Fees in accordance with 42 U.S.C. § 1988 which specifically provides that a reasonable Attorney's Fee be provided to the prevailing party


in a 42 U.S.C. § 1983 case such as this. In addition to 42 U.S.C. § 1988, it is respectfully contended that Attorney's Fees are appropriate based upon other case law, legal, and equitable considerations -- not the least of which is the punitive damage aspect of this case.

It is further respectfully requested that all costs of this action, to include pre-judgment interest and post-judgment interest be paid by Defendants.

All such relief is asked which may be just and proper and to which Plaintiff may be entitled.

RESPECTFULLY SUBMITTED this the 29th day of June A.D. 1994.

  
DR. TRELIS G. GREEN, Plaintiff

  
KIM T. CHAZE  
Attorney for Plaintiff  
MSB #5974  
912 West Pine Street  
Hattiesburg, MS 39401-4262  
601/582-3947

The screen above shows that Green also sought attorney's fees under *42 U.S.C. § 1988*.

### The Defendants "Answer"

The series of screens presented below show the "Answer" to Green's allegations from the Defendants: President Aubrey Lucas, VPAA David Huffman, CBA Dean Tyrone Black, and EIB Chair George Carter:

FILED  
SEP 27 1994

IN THE CIRCUIT COURT OF FORREST COUNTY, MISSISSIPPI

*William Rowan*  
CIRCUIT CLERK

DR. TRELIS G. GREEN

PLAINTIFF

V.

CASE NO. 6-94-4284 /

THE UNIVERSITY OF SOUTHERN  
MISSISSIPPI, ET AL.

DEFENDANTS

ANSWER

COME NOW, The University of Southern Mississippi, Dr. Aubrey K. Lucas, individually and officially, Dr. G. David Huffman, individually and officially, Dr. Tyrone Black, individually and officially, and Dr. George Carter, individually and officially, and The Board of Trustees of State Institutions of Higher Learning (hereinafter referred to collectively as "Defendants") and answer the complaint filed in this matter as follows:

1. Defendants admit the allegation in Paragraph 1 of the Complaint.

2. Defendants admit that The University of Southern Mississippi is located in Forrest County, Mississippi, and may be served with process by serving the Mississippi Attorney General. Defendants deny the remainder of the allegations contained in Paragraph 2 of the Complaint.

3. Defendants admit that Dr. Aubrey K. Lucas is the President of The University of Southern Mississippi and that he may be served with process in his official capacity by serving the Mississippi Attorney General. Defendants deny the remainder of the allegations contained in Paragraph 3 of the Complaint.

4. Defendants admit that Dr. David Huffman is the Vice President of Academic Affairs of The University of Southern Mississippi and that he may be served with process in his official capacity by serving the Mississippi Attorney General. Defendants deny the remainder of the allegations contained in Paragraph 4 of the Complaint.

5. Defendants admit that Dr. Tyrone Black is the Dean of the College of Business Administration of The University of Southern Mississippi, and that he may be served with process in his official capacity by serving the Mississippi Attorney General. Defendants deny the remainder of the allegations contained in Paragraph 5 of the Complaint.

6. Defendants admit that Dr. George Carter is the Chair of the Department of Economics at The University of Southern Mississippi and that he may be served with process in his official capacity by serving the Mississippi Attorney General. Defendants deny the remainder of the allegations contained in Paragraph 6 of the Complaint.

7. Defendants admit that the Board of Trustees of State Institutions of Higher Learning may be served with process in its official capacity by serving the Mississippi Attorney General. Defendants deny the remainder of the allegations contained in Paragraph 7 of the Complaint.

#### FACTS

8. Defendants admit that Plaintiff was denied a promotion at The University of Southern Mississippi. Defendants deny the remainder of the allegations contained in Paragraph 8 of the Complaint.

9. Defendants deny the allegations contained in Paragraph 9 of the Complaint.

10. Defendants deny the allegations contained in Paragraph 10 of the Complaint.

11. Defendants deny the allegations contained in Paragraph 11 of the Complaint.

12. Defendants deny the allegations contained in Paragraph 12 of the Complaint.

13. Defendants deny the allegations contained in Paragraph 13 of the Complaint.

14. Defendants deny the allegations contained in Paragraph 14 of the Complaint.

15. Defendants deny the allegations contained in Paragraph 15 of the Complaint.

The defendants admitted that Trellis Green exists, that USM is located in Forrest County, and that the defendants held the positions at USM that Green alleged they held. All of Green's other allegations are denied (see the 15 items above). The defendants next addressed the Counts in the suit:

COUNT I.

16. Defendants deny the allegations contained in Paragraph 16 of the Complaint.

17. Defendants deny the allegations contained in Paragraph 17 of the Complaint.

18. Defendants deny the allegations contained in Paragraph 18 of the Complaint.

COUNT II.

19. Defendants deny the allegations contained in Paragraph 19 of the Complaint.

20. Defendants deny the allegations contained in Paragraph 20 of the Complaint.

21. Defendants deny that Plaintiff is entitled to any damages.

COUNT III.

22. Defendants deny the allegations contained in Paragraph 22 of the Complaint.

23. Defendants deny the allegations contained in Paragraph 23 of the Complaint.

24. Defendants deny the allegations contained in Paragraph 24 of the Complaint.

COUNT IV.

25. Defendants deny the allegations contained in Paragraph 25 of the Complaint.

26. Defendants deny the allegations contained in Paragraph 26 of the Complaint.

27. Defendants deny the allegations contained in Paragraph 27 of the Complaint.

COUNT V.

28. Defendants deny the allegations contained in Paragraph 28 of the Complaint.

29. Defendants deny the allegations contained in Paragraph 29 of the Complaint.

30. Defendants deny that Plaintiff is entitled to any damages.

The screen below presents the defendants' responses to Green's requests for relief:

REQUEST FOR RELIEF

Defendants deny all of the allegations contained in the final, unnumbered paragraphs of the Complaint.

Defendants categorically deny that Plaintiff is entitled to any damages whatsoever in this matter, whether actual, compensatory or punitive, and deny that Plaintiff is entitled to promotion.

Defendants further deny that Plaintiff is entitled to attorney's fees, pre-judgment or post judgment interest.

Finally, Defendants deny that Plaintiff is entitled to any relief whatsoever in this action, and demand that this action be dismissed with all costs charged to Plaintiff.

The following set of screens presents the defendants' "Affirmative Defenses" in the case:

AFFIRMATIVE DEFENSES

NOW, having responded to the specific allegations of the Complaint, Defendants assert the following affirmative defenses:

FIRST DEFENSE

The Complaint fails to state a claim upon which relief can be granted against the Defendants.

SECOND DEFENSE

Defendants University and Board of Trustees of State Institutions of Higher Learning and the individual Defendants in their official capacities are agents and agencies of the State of Mississippi and are, therefore, immune from suit by virtue of sovereign immunity.

THIRD DEFENSE

The individual Defendants are immune from suit by virtue of qualified immunity.

FOURTH DEFENSE

The individual Defendants are immune from suit under the Mississippi Tort Claims Act, §§11-46-1, et seq., Miss. Code Ann., as amended.

FIFTH DEFENSE

Plaintiff has failed to satisfy the jurisdictional requirements under the Mississippi Tort Claims Act, §§11-46-1, et seq., Miss. Code Ann., as amended.

SIXTH DEFENSE

All Defendants assert the defenses available to them under the Mississippi Tort Claims Act, §§11-46-1, et seq., Miss. Code Ann., as amended, specifically but not limited to, those defenses available under §§11-46-9 and 11-46-11, Miss. Code Ann., as amended.

SEVENTH DEFENSE


All contractual obligations existing between Plaintiff and the institutional Defendants were satisfied at the time of the filing of the Complaint in this matter.



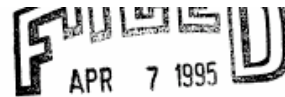
Respectfully submitted,

Mike Moore, Attorney General  
State of Mississippi

Robert G. Jenkins  
Special Assistant Attorney General

By:   
\_\_\_\_\_  
Lee P. Gore  
Special Assistant Attorney General  
The University of Southern  
Mississippi  
Southern Station Box 10051

### The Deposition Phase

  
APR 7 1995

IN THE CIRCUIT COURT OF FORREST COUNTY, MISSISSIPPI,

  
CIRCUIT CLERK  
PLAINTIFF;

DR. TRELIS GREEN,

v.

CASE NO.: 6-94-4284 ✓  
4284

THE UNIVERSITY OF SOUTHERN MISSISSIPPI,  
DR. AUBREY K. LUCAS, INDIVIDUALLY AND  
OFFICIALLY, DR. DAVID HUFFMAN,  
INDIVIDUALLY AND OFFICIALLY, DR. TYRONE  
BLACK, INDIVIDUALLY AND OFFICIALLY, THE  
BOARD OF TRUSTEES OF STATE INSTITUTIONS  
OF HIGHER LEARNING, AND DR. GEORGE  
CARTER, INDIVIDUALLY AND OFFICIALLY,

DEFENDANTS.

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#### NOTICE OF DEPOSITIONS

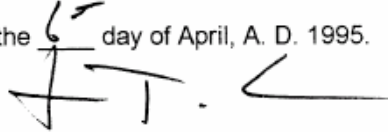
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PLEASE TAKE NOTICE that Counsel for Plaintiff in the above-entitled action will take the depositions of **DR. TYRONE BLACK**, and **DR. GEORGE CARTER**, on **May 22, 1995**, at **2 p.m.** and **4 p.m.**, respectively, upon oral examination pursuant to the Miss. R. Civ. P. before a notary public, or before some other official authorized by law to administer oaths at the law offices of **KIM T. CHAZE**, located at **912 West Pine Street, Hattiesburg, Mississippi**.

Said oral examinations will continue from day to day until completed. You are invited to attend and take such part in said examination as you deem necessary.



RESPECTFULLY SUBMITTED on this the 6 day of April, A. D. 1995.

  
KIM T. CHAZE  
Attorney for Plaintiff  
MSB #5974  
912 West Pine Street  
Hattiesburg, MS 39401  
601/582-3947

The document above shows that the suit moved into the deposition phase by April of 1995, about one year after Green was last denied a promotion to associate professor of economics. Black and Carter were scheduled to be deposed beginning at 2:00pm on 22 May 1995.

The screens below point out that Green and his counsel, Kim Chaze, encountered some difficulty in deposing Black and Carter. In fact, they felt it necessary to file a "Motion to Compel" with Circuit Court Judge Richard McKenzie.

IN THE CIRCUIT COURT OF FORREST COUNTY, MISSISSIPPI

**FILED**  
JUL 20 1995

*Maxim Brown*  
CIRCUIT CLERK  
PLAINTIFF;

DR. TRELIS GREEN,

v.

CASE NO.: 6-94-4284 ✓

THE UNIVERSITY OF SOUTHERN  
MISSISSIPPI, ET AL.,

DEFENDANTS.

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**NOTICE AND  
MOTION TO COMPEL**

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**NOTICE**

PLEASE TAKE NOTICE that the Plaintiff will bring on to be heard his MOTION TO COMPEL before the Honorable Richard W. McKenzie, Forrest County Circuit Judge, on August 1, 1995 at 9 a.m. in the Forrest County Circuit Courthouse located on Main Street in Hattiesburg, Mississippi.

**MOTION**

COMES NOW, the Plaintiff by and through his attorney, and moves this Court for an Order compelling cooperation in discovery. In support hereof, the following is stated:

1. The depositions of the Defendants need to be taken. Counsel for the Defendants has stated that these depositions will not be able to be taken until September 8, 1995. This is simply too late.
2. Our system of discovery, pursuant to the *Miss. Rules of Civil Procedure*, insists that there be more cooperation between parties so that orderly discovery can be

engaged.

3. We respectfully move this Honorable Court to compel the Defendants to provide earlier dates than September 8, 1995 so that the depositions of the parties can be taken.

RESPECTFULLY SUBMITTED on this the 19<sup>th</sup> day of July, A.D. 1995.



KIM T. CHAZE  
Attorney at Law  
MSB #5974  
912 West Pine Street  
Hattiesburg, MS 39401  
601/582-3947

This Motion was filed by Chaze on 20 July 1995, or about two months after depositions were originally scheduled to begin. The motion points out that USM Counsel Lee Gore had, at some time, told Chaze that the Black and Carter depositions could not be completed prior to 8 September 1995.

The defendants' response to the Motion to Compel is presented below:

IN THE CIRCUIT COURT OF FORREST COUNTY, MISSISSIPPI

DR. TRELIS GREEN

v.

THE UNIVERSITY OF SOUTHERN  
MISSISSIPPI, ET AL.

**FILED**  
JUL 28 1995

*Marion Brown*  
CIRCUIT CLERK

PLAINTIFF

CASE NO. 6-94-4284 ✓

DEFENDANTS

RESPONSE TO MOTION TO COMPEL

COME NOW, all Defendants, by and through undersigned counsel, and file this response to Plaintiff's motion to compel cooperation in discovery.

1. MRCP 37(a)(2) provides that a party may move to compel discovery when a deponent fails to answer a question, a party fails to answer an interrogatory, or a party refuses to permit inspection. None of the above circumstances are plead in

Plaintiff's motion to compel. Rather, Plaintiff's motion asks for a general order that Defendants be made to cooperate in his discovery efforts, implying that Defendants have refused or failed to cooperate. Accordingly, this motion is not well taken under Rule 37, or any other rule of civil procedure, and for that reason alone should be denied by the Court.

2. Plaintiff originally noticed the subject depositions to begin at 2:00 p.m. and 4:00 p.m. on May 22, 1995 (Exhibit 1, Notice of Depositions). At the request of Plaintiff, the beginning time for the depositions was moved to 10:00 a.m. and the deposition of Dean Black began at approximately 10:15 a.m. (Exhibit 2, page 2 of transcription of May 22, 1995, deposition of Dr. Tyrone Black). Plaintiff's counsel announced that he had to suspend the Black deposition at 3:05 p.m. to attend a hearing in Hazelhurst, Mississippi (Exhibit 3, pages 133 and 134 of the transcription of the deposition of Dr. Tyrone Black). Plaintiff did not begin the noticed deposition of Dr. Carter.

3. At the time he recessed Dr. Black's deposition, Plaintiff's counsel stated, ". . .all I can do is recess this and reconvene at some future time that's mutually convenient to everybody." (Exhibit 3).

4. By letter of June 5, 1995, Plaintiff's counsel requested dates to complete the depositions (Exhibit 4).

5. Defense counsel responded by letter of June 19, 1995, that September 8, 1995, was the first date that both deponents and both defense counsel could be available (Exhibit 5).

6. Plaintiff's counsel responded by letter dated July 5, 1995, (Exhibit 6) that September 9 [sic], 1995, was unacceptable.


7. Regardless of Plaintiff's insistence that the depositions be held sooner, September 8, 1995, remains the earliest practicable day for both deponents and both defense counsel to be available for the depositions.

WHEREFORE, PREMISES CONSIDERED, Defendants respectfully request that Plaintiff's motion be denied with all costs for defending same to be charged to Plaintiff.

Respectfully submitted,

Mike Moore, Attorney General  
State of Mississippi

Robert G. Jenkins  
Special Assistant Attorney General

By:   
\_\_\_\_\_  
Lee P. Gore  
Special Assistant Attorney General  
The University of Southern  
Mississippi  
Southern Station Box 10051  
Hattiesburg, MS 39406-0051  
(601) 266-5725  
Mississippi Bar No. 4915

The defendants' response clears up some details. According to the document above, the deposition of Black *did begin* on 22 May 1995. But, it had to be suspended at the request of Chaze at 3:05pm (so that Chaze could attend a meeting in Hazelhurst). Apparently, on 5 June 1995 Chaze wrote a letter to Gore asking for possible dates to resume Black's deposition. The defendants responded to that letter two weeks later, on 19 June 1995, indicating that the first date that would work for both defendants and defense counsel was about two months later, on 8 September 1995. Chaze then responded by letter on 5 July 1995 stating that the September date was unacceptable to the plaintiff (Green). Gore, however, continued to insist that 8 September 1995 was the earliest possible date.

1           The deposition of **DR. TYRONE BLACK**, taken in the  
2 captioned cause, pending in the Circuit Court of  
3 Forrest County, Mississippi, said deposition being  
4 taken before Susan L. Link, Court Reporter and Notary  
5 Public in the State of Mississippi, said examination  
6 being conducted after the witness had been sworn, and  
7 the examination being conducted at the USM McCain  
8 Library, Room 203, Hattiesburg, Mississippi, on  
9 Monday, May 22, 1995, commencing at approximately 10:15  
10 a.m.

The document above indicates that Black's deposition did begin on 22 May 1995 (at 10:15am). The deposition was taken before Susan L. Link in USM's McCain Library, Room 203. The remaining portion of the document above is presented below:

IT IS STIPULATED by and between counsel representing the parties that this deposition is being taken pursuant to notice and by agreement for all purposes in accordance with the Mississippi Rules of Civil Procedure.

IT IS FURTHER STIPULATED that all objections, except objections to the form of the question, will be reserved until the deposition or any part thereof is attempted to be introduced as evidence in a trial.

IT IS FURTHER STIPULATED that the reading and signing of the deposition by the deponent is specifically not waived.

As the document below indicates, Circuit Court Judge McKenzie held the Order on Green's Motion to Compel in abeyance and simply encouraged the two parties to agree to better cooperate in the discovery process.

IN THE CIRCUIT COURT OF FORREST COUNTY, MISSISSIPPI

DR. TRELIS GREEN,

V.

THE UNIVERSITY OF SOUTHERN MISSISSIPPI, DR. AUBREY K. LUCAS, INDIVIDUALLY AND OFFICIALLY, DR. DAVID HUFFMAN, INDIVIDUALLY AND OFFICIALLY, DR. TYRONE BLACK, INDIVIDUALLY AND OFFICIALLY, THE BOARD OF TRUSTEES OF STATE INSTITUTIONS OF HIGHER LEARNING, AND DR. GEORGE CARTER, INDIVIDUALLY AND OFFICIALLY,

PLAINTIFF;

CASE NO. 6-94-<sup>4284</sup>~~4281~~ ✓

**FILED**  
AUG 30 1995

*Marian Brown*  
CIRCUIT CLERK  
DEFENDANT'S.

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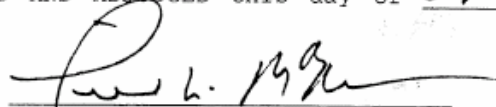
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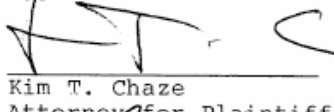
THIS DAY this matter came on to be heard upon written Motion to Compel filed by the Plaintiff regarding discovery. The

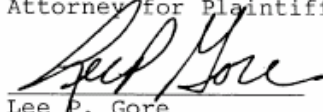
Court will hold said Order in abeyance and, at this time, simply encourage both attorneys to cooperate in regard to discovery. The Court does find that it is in the interest of justice that the depositions of the Defendants be allowed before this matter is set for trial.

IT IS THEREFORE ORDERED AND ADJUDGED this day of 29<sup>th</sup>  
August, A.D. 1995.

  
Circuit Court Judge

Approved as to Form:

  
Kim T. Chaze  
Attorney for Plaintiff

  
Lee P. Gore  
Attorney for Defendants

As McKenzie's Order stated:

"The Court does find that it is in the interest of justice that the depositions of the Defendants be allowed before this matter is set for trial."

McKenzie's Order was filed on 30 August 1995.

The next issue in this series will continue our examination of Green's efforts to depose Tyrone Black and George Carter.