

**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI  
WESTERN DIVISION**

**GORDON VANCE JUSTICE, JR., ET AL.**

**PLAINTIFFS**

**v.**

**CIVIL CASE NO. 3:11CV138-A-A**

**DELBERT HOSEMAN, ET AL.**

**DEFENDANTS**

**Motion Under Rule 59(e) to Alter or Amend Judgment**

COME NOW Defendants Delbert Hosemann, in his official capacity as the Mississippi Secretary of State, and Jim Hood, in his official capacity as the Attorney General of the State of Mississippi, and file this Rule 59(e) motion to alter or amend the judgment so that this Court's order will clearly convey that it is a final judgment disposing of all pending claims.

1. Rule 59(e) permits a party to file a motion to alter or amend a judgment within 28 days of the entry of the judgment. Fed. R. Civ. P. 59(e). This Court entered a Memorandum Opinion and Order Granting Summary Judgment on September 30, 2013. *See* Docket No. 78, 79. It is the undersigned's understanding that the Order itself, or the Opinion and Order collectively, are considered by this Court to constitute a final, appealable judgment under Rule 58. Thus, this motion to alter or amend is timely filed under Rule 59(e).<sup>1</sup>

2. The Defendants seek an order altering or amending the judgment to alleviate any possible confusion as to whether all claims of the parties have been fully

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<sup>1</sup> The Defendants will be filing a notice of appeal shortly. That notice will not interfere with this Court's authority to address the Rule 59 motion. The "timely filing of a [Rule 59 motion] suspends or renders dormant a notice of appeal until all such motions are disposed of by the trial court. This holds true regardless of whether the motion was filed before or after the notice of appeal." *Ross v. Marshall*, 426 F.3d 745, 751-52 (5th Cir.2005).

and finally resolved. Specifically, the Order states that the Plaintiffs' motion for summary is granted in part and denied in part. The Order further states that the Defendants' motion for summary judgment is denied. The appellate court may read those two provisions as reserving for further proceedings that part of Plaintiffs' summary judgment that was denied. If the Order was so interpreted by an appellate court, the Defendants' appeal would be dismissed and the parties would return to this Court for further clarification. *See Lopez v. Cnty. of Hidalgo*, 260 F.3d 621 (5th Cir. 2001)(dismissing appeal when order granting summary judgment was "not a final order disposing of all claims of all parties before the District Court and was not designated as a final order by the District Court pursuant to Rule 54(b)").

3. The Defendants file this motion out of an abundance of caution. In the event the appellate court returned the matter to this Court for clarification, the intervening time could prejudice the Defendants. There is the possibility that a constitutional ballot measure may appear on the November 2015 ballot. A procedural delay that jeopardizes the ability of the Defendants to secure complete appellate review of this Court's order well prior to the 2015 election cycle will prejudice the Defendants' ability to timely enforce and/or amend its campaign finance disclosure statutes.

4. Thus, the Defendants respectfully request that this Court's September 30, 2013, Order be altered or amended to state that it is a judgment which fully and finally disposes of all claims of all parties before the Court.

5. Because this motion sets forth the basis for relief in its entirety, the Defendants respectfully request that they be relieved of the obligation to file a separate memorandum of authorities.

**RESPECTFULLY SUBMITTED** this, the 17<sup>th</sup> day of October, 2013

**DELBERT HOSEMANN, in his official  
capacity as Mississippi Secretary of State**

**BY: JIM HOOD, ATTORNEY GENERAL  
STATE OF MISSISSIPPI**

BY: /s/ Harold E. Pizzetta III  
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**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing document has been filed electronically with the Clerk of Court using the Court's ECF system and thereby served on the following persons:

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**THIS**, the 17<sup>th</sup> day of October, 2013.

BY: /s/ Harold E. Pizzetta III  
HAROLD E. PIZZETTA, III