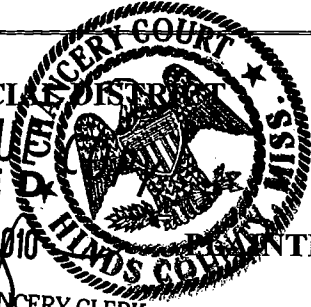


IN THE CHANCERY COURT OF THE FIRST JUDICIAL DISTRICT
OF HINDS COUNTY, MISSISSIPPI



KCC, INC., an Alabama Corporation
d/b/a VITAL CARE OF MERIDIAN

ATTEST APPROVED
FILED
OCT 22 2010
EDDIE JEAN CARR, CHANCERY CLERK
BY _____ CIVIL ACTION NO. G2010-753 O/3
D.C.

V.

MISSISSIPPI STATE AND SCHOOL
EMPLOYEES' LIFE AND HEALTH PLAN,
CATALYST RX, AND JOHN AND DOES 1-10

PLAINTIFF
DEFENDANTS

ORDER

THIS MATTER is before the Court on Plaintiff's Motion for Partial Summary Judgment.

Rule 56(c) of the Mississippi Rules of Civil Procedure provides that a Motion for Summary Judgment shall be granted by a court if "the pleadings, depositions, answers to interrogatories and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law." M.R.C.P. 56(c).

Thus, the moving party has the burden of demonstrating that there is no genuine issue of material fact in existence, while the non-moving party should be given the benefit of every reasonable doubt.

Hinson v. N&W Constr. Co., 890 So. 2d 65, 66 (Miss. App. 2004). "If, in this view, there is no genuine issue of material fact and, the moving party is entitled to judgment as a matter of law, summary judgment should forthwith be entered in his favor. Otherwise, the motion should be denied." *Id.*

Summary judgment is a laudable tool in the administration of justice but it should be used wisely and sparingly. Chancery Court is peculiarly capable of hearing the entire litigation on its facts and should view the granting of summary judgment with this peculiar capability in mind. Frequently a chancellor can hear the entire trial and provide this Court with a complete record in only slightly more time than the court could deal with a Motion for Summary Judgment. When this is the case, discretion gravitates toward a complete trial.

Martin v. Simmons, 571 So. 2d 254, 258 (Miss. 1990).

This Court hereby finds that no genuine issue of material fact exist as to the question of whether Mississippi Code Annotated Section 83-6-9 applies to the Mississippi State and School Employees' Life and Health Plan ("the Plan"). The Court finds that Section 83-6-9 does apply to this matter. Therefore, the Plaintiff is entitled to a partial summary judgment as a matter of law, to that effect. The Court further finds that all other issues in this case shall be presented during the trial of this matter.

Accordingly, this Court, finds that Plaintiff's Motion for Partial Summary Judgment is well taken and is hereby GRANTED.

SO ORDERED and ADJUDGED this the 22nd day of October 2010.



CHANCELLOR DENISE OWENS