

**TRANSFER OF CASES  
FROM CHANCERY COURT  
TO CIRCUIT COURT**

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**WHEN TRANSFER FROM CHANCERY COURT TO CIRCUIT COURT  
MAY BE APPROPRIATE**

***Germany v. Germany*, 123 So. 3d 423, 431 (Miss. 2013):**

The facts of the case sub judice are distinguishable from those in *Hardin*. In *Hardin*, we concluded that the plaintiff's claims amounted to "essentially a breach of contract claim which is best heard in circuit court." But *Hardin* involved a commercial "arm's length" transaction, rather than an agreement between spouses concerning how the couple's finances would be managed. The remedy Ginger seeks for Robert's alleged fraud - "the promised equal share of the 'tobacco money'" - further illustrates the equitable substance of her claim. The fact that she is seeking punitive damages should not be the determining factor of whether her claim is legal rather than equitable. Ginger has alleged essentially the same set of facts for her fraud claim as she did in her breach-of-contract claim, which we find to be equitable in nature and related to the parties' pending divorce. Accordingly, we find that Ginger's fraud claim is related to divorce and alimony and should be transferred to the chancery court proceeding. (Citations omitted).

***Derr Plantation, Inc. v. Swarek*, 14 So. 3d 711, 717-20 (Miss. 2009):**

Under the Mississippi Constitution of 1890, circuit courts are courts of general jurisdiction, while chancery courts have limited jurisdiction over "all matters in equity" and other designated matters. The constitution contains complementary provisions for the transfer of cases commenced in the wrong forum.

The jurisdiction of the chancery court is a question of subject matter jurisdiction that may be raised by either party at any time. However, this Court is prohibited by the Mississippi Constitution from reversing on this issue after a final judgment. A party aggrieved by the trial court's grant or denial of a motion to transfer may seek relief by pursuing an interlocutory appeal, as DPI has done here.

"To determine whether a court has subject matter jurisdiction, we look to the face of the complaint, examining the nature of the controversy and the relief sought." The reviewing court must look to the substance, not the form, of a claim to determine whether that claim is legal or equitable. We have consistently held that if it appears from the face of a well-pleaded complaint that an independent basis for equity jurisdiction exists, our chancery courts may hear and adjudge law claims. In that circumstance, the legal claims lie within the pendent jurisdiction of the chancery court. As long as the chancery court's equity jurisdiction has attached, the chancery court has discretion to award legal and punitive damages.

Conversely, "if the complaint seeks legal relief, even in combination with equitable relief, the circuit court can have proper subject matter jurisdiction." In fact, if there is some

doubt as to whether a case is within the jurisdiction of the chancery court, the case is better tried in circuit court because “it is more appropriate for a circuit court to hear equity claims than it is for a chancery court to hear actions at law since circuit courts have general jurisdiction but chancery courts enjoy only limited jurisdiction.” This Court also has cited the constitutional right to a jury trial as a reason for resolving doubtful cases in favor of circuit court jurisdiction. Nonetheless, a party cannot, by invoking the right to a jury trial, secure a transfer to circuit court of a case properly within the chancery court's jurisdiction.

The Swareks argue that the transfer to circuit court was appropriate because the substance of their complaint was breach of contract, a claim properly heard in circuit court. It is true that in several recent cases, this Court determined that the chancery court lacked jurisdiction over a breach-of-contract case, and that the circuit court had exclusive jurisdiction. Each of these cases involved a breach-of-contract claim for which damages, a legal remedy, was the appropriate remedy. . . .

A claim for specific performance as a remedy for breach of contract is within the equity jurisdiction of the chancery court. The Swareks' complaint alleged that DPI had breached an agreement to lease and sell them a large farm, and they claimed that specific performance was the most appropriate remedy due to the unique nature of the real estate and accompanying livestock and farm equipment. Accordingly, they requested that the chancery court order DPI to perform the agreement by delivering the property according to the contract terms. They also requested a preliminary injunction entitling them to immediate possession of the property under the lease.

From our review of the nature of this controversy and the relief sought, it is apparent that the Swareks' primary claim is for specific performance as a remedy for breach of a real estate contract, an equitable claim. The requested injunctive relief also is within the chancery court's equity jurisdiction. We are fully cognizant that the Swareks also prayed that the court award them compensatory damages as an alternative to, or in addition to, specific performance. In a suit for specific performance, the court may order specific performance along with damages for the defendant's delay in performing the contract. Or, the court may, in its discretion, reject the plaintiff's claim that specific performance is the most appropriate remedy and instead award compensatory damages as the entire remedy for the breach. In a suit for specific performance, the possibility that the chancery court will reject specific performance and instead award compensatory damages does not defeat that court's equity jurisdiction. . . .

The Swareks argue that their claim for punitive damages for willful and intentional breach of contract implicated the jurisdiction of the circuit court. We have stated that the fact that punitive damages are sought is a “strong indicator” that the matter is legal, rather than equitable. However, the Swarek's addition of a punitive-damages claim, which is an extraordinary remedy not favored in Mississippi law does not outweigh their request for

specific performance, which is recognized as a traditional and appropriate remedy for the wrong alleged. Moreover, once the equity jurisdiction of the chancery court has attached, the chancery court has the power to award “legal and even punitive damages.” . . .

As in *City of Starkville*, the chancery court acquired jurisdiction over the Swareks' complaint because the fundamental nature of their claim was for the equitable remedy of specific performance; additionally, the chancellor has presided over the matter through discovery and dispositive motions and she is thus well-positioned to fairly and correctly decide the issues to be tried.

The Swareks' argument that their right to a jury trial would be infringed if this case remained in chancery court does not avail them. The Mississippi Constitution provides that “the right of trial by jury shall remain inviolate.” “In ‘chancery court, with some few statutory exceptions, the right to jury is purely within the discretion of the chancellor, and if one is empaneled, its findings are totally advisory.’” However, no jury trial is required by section 31 for cases within the chancery court's jurisdiction. Chancellors historically have had jurisdiction over claims for specific performance of a real estate contract. It may be expected that the chancery court, in adjudicating a request for specific performance, also will be called upon to adjudicate the validity, construction, definiteness or enforceability of the purported contract. As we have discussed, the substance of the Swareks' complaint was for specific performance of a real estate contract. Because this case was within the chancery court's jurisdiction, the Swareks cannot secure a transfer to circuit court by requesting a jury trial. . . .

The primary thrust of the Swareks' complaint was a request for equitable relief in the form of specific performance of a real estate contract. Specific performance is a particularly appropriate remedy for breach of a real estate contract, and claims for specific performance are within the historic equity jurisdiction of the chancery court. Therefore, the chancery court had jurisdiction over this case, and it erred by granting the Swareks' motion to transfer the case to circuit court. We reverse the transfer order and remand this case to the chancery court for further proceedings consistent with this opinion. If the chancellor in her discretion determines that the Swareks are entitled to relief but specific performance is not warranted, she is empowered to order appropriate legal or equitable relief. (Citations omitted).

***Tyson Breeders, Inc. v. Harrison*, 940 So. 2d 230, 231-34 (Miss. 2006):**

On December 17, 2002, Harrison filed a Complaint, alleging that Tyson breached the HEP contract by removing the chickens from his premises and by refusing to furnish him with another flock. Tyson unsuccessfully removed the case to federal court. Upon remand, Tyson moved to transfer the case to the Circuit Court of Covington County based on the following grounds: (1) the chancery court lacked subject matter jurisdiction; (2) the remedies sought were legal, not equitable, in nature; and (3) transfer was required to

protect defendant's constitutional right to a jury trial. At the hearing on the Motion to Transfer on June 29, 2005, the chancellor took the issue of transfer under advisement, but ultimately found the chancery court had jurisdiction over the matter. Harrison subsequently filed a motion for partial summary judgment. On November 28, 2005, the chancery court entered an order which granted partial summary judgment in favor of Harrison for breach of contract and transferred the matter to the Circuit Court of Covington County for the purpose of determining damages. Tyson subsequently petitioned the court for interlocutory appeal, which was granted. On appeal, Tyson presents the following issues for review:

- I. Whether the Chancery Court Erred as a Matter of Law in Failing to Transfer this Action for Damages, in its Entirety, to the Circuit Court.
- II. Alternatively, Whether the Chancery Court's Entry of Partial Summary Judgment on Liability (Breach of Contract) Fails as a Matter of Law.

Tyson, citing *Crosby*, alleges that despite inclusion of purported "equitable" claims, a complaint seeking actual and punitive damages and asserting claims for fraud, fraudulent inducement, breach of contract and negligence is clearly legal in nature and should be heard in circuit court to preserve the right of trial by jury. Tyson also claims that jurisdiction over a breach of contract action rests in circuit and not chancery court, and the remedy on interlocutory appeal is to order the transfer of the case from chancery to circuit court. Tyson further claims that since the HEP contract sought to be specifically enforced expired on December 31, 2002, there is no longer a contract upon which specific performance can be granted.

Conversely, Harrison cites to *Shaw v. Owen*, 229 Miss. 126, 90 So. 2d 179, 181 (1956), which states "where a suit is brought in the chancery court and the court takes jurisdiction on any one ground of equity, it will proceed in the one suit to a complete adjudication and settlement of every one of all the several disputed questions materially involved in the entire transaction. . . ." *Shaw* has been cited by the Court in numerous opinions, emphasizing that once a chancery court exercises equity jurisdiction, it may proceed to completely adjudicate the suit and award all appropriate remedies, both legal and equitable, even where the other questions involved in the suit are purely legal. . . .

This Court has held that breach of contract issues are best heard in circuit court. In cases in which some doubt exists as to whether a complaint is legal or equitable in nature, the better practice is to try the case in circuit court. Although the Court has previously allowed a chancery court to retain jurisdiction over cases involving questions of both law and equity, more recent cases hold that equitable claims are more appropriately brought before a circuit court when they are connected to a contractual relationship or other claims tied to questions of law. . . .

Additionally, the Court has held that "it is more appropriate for a circuit court to hear equity claims than it is for a chancery court to hear actions at law since circuit courts have

general jurisdiction but chancery courts enjoy only limited jurisdiction.” In *Copiah, Crosby, and Mathis*, we have confirmed the lack of jurisdiction in chancery court and the exclusive jurisdiction in circuit court in each of these breach of contract cases, and accordingly ordered the transfer of each case to circuit court.

We also stated, in *Roberts v. Spence*, that “ordinarily a court of equity will not attempt to enforce a contract by specific performance where the parties have an adequate remedy at law to recover damages growing out of a party's failure to carry out a contract's terms.” This case does not involve an unique matter such as real estate where specific performance is a particularly appropriate remedy. Rather, the equitable remedy sought by Harrison in his complaint filed on December 17, 2002, involved the specific performance of a contract for services, which expired on December 31, 2002. The chancellor's order which granted partial summary judgment on liability for breach of contract entitled Harrison to “relief either in equity by the enforcement by the Chancery Court of the contract or through damages.” Thus, even the chancellor's order demonstrates that specific performance is not the more appropriate remedy in this matter, as the order also acknowledges an adequate remedy at law to recover damages. Therefore, consistent with the rationale in *Roberts*, the proper remedy for Harrison's action for breach of contract is at law to recover damages, which is best heard by the circuit court. (Citations omitted).

***ERA Franchise Systems, Inc. v. Mathis*, 931 So. 2d 1278, 1279-84 (Miss. 2006):**

Mathis filed a “Complaint for Declaratory and Other Relief” in the Chancery Court of Covington County against a real estate franchising corporation, ERA Franchise Systems, Inc. (“ERA”), his former business partners, their newly-formed business entities, and his former partners' new partners in the newly-formed business entities. ERA filed a motion to have the action transferred to circuit court. The chancellor held a hearing and, ruling that he would bifurcate the trial between equitable and legal claims, denied the motion to transfer. ERA then filed a petition for interlocutory appeal which this Court granted. . . .

Mathis asserts that a number of the issues he raises are equitable because they are derivative in nature. He concedes that if REP were bringing a direct action against ERA for breach of contract and was seeking compensatory and punitive damages, rather than specific performance of the contract, REP's suit would be an action at law. He admits that the same would be true for his claims of breach of fiduciary and other duties and claims of tortious interference. However, he claims that because he is asserting REP's claims derivatively and seeks to have a court of equity fashion a remedy that prevents the other equity member of REP (Irby) from profiting from his wrongful conduct, jurisdiction is proper in chancery court. . . .

We agree with Mathis's assertion that a true stockholder derivative action is a suit in equity which confers jurisdiction on the chancery court. However, unlike the plaintiff in *Derouen*, who merely sought his fair share of the proceeds owed to the corporation,

Mathis is asserting his own personal claims, in addition to the derivative claims of REP, in a direct action that may benefit him alone, to the exclusion of the other equity owner in REP. Based on these facts, we must conclude that, as to the derivative claims through which Mathis seeks compensatory and punitive damages, he is pursuing a direct legal action rather than a true shareholder's derivative action. . . .

ERA argues, based on a recent line of cases from this Court, that the chancellor was without jurisdiction to hear this matter, was required to transfer this case from chancery to circuit court, and committed reversible error in failing to grant a transfer. This argument is based in large part on the fact that in those cases, as here, punitive damages were sought, a strong indicator that the matter is a legal action rather than an equitable one. ERA's position is also based on this Court's prior recognition that "if some doubt exists as to whether a complaint is legal or equitable in nature, that case is better tried in circuit court" since circuit courts have general, rather than limited, jurisdiction. . . .

Mathis attempts to prevent the application of our holding in *Crosby* to the present case by arguing that his complaint is a mixture of equitable and legal issues, but we find that Mathis's causes of action are primarily issues stemming from contractual obligations he contends were not met by the defendants. Breach of contract issues are best heard in circuit court. While we have allowed a chancery court to retain jurisdiction over cases involving questions of both law and equity, our more recent cases have held that equitable claims are more appropriately brought before a circuit court when they are connected to a contractual relationship or other claims tied to questions of law. In addition, ERA would also be denied the opportunity for a jury trial if Mathis's claims are adjudicated by a chancery court, and plaintiffs should not be allowed to deprive defendants of their constitutional right to a jury trial simply by a choice of forum. The combination of factors pointing to a circuit court as a better choice than a chancery court for the case to be heard convinces us that the chancellor erred by denying the defendants' motion to transfer the case.

Because Mathis's claims contain questions of law and equity, request punitive damages, and because having the claims adjudicated in chancery court would deprive ERA of the right to a jury trial, we find the chancellor erred in denying the defendants' motion to transfer the case to circuit court. We reverse the chancery court's denial of defendant's motion and remand with instructions to transfer the case to the Covington County Circuit Court. (Citations omitted).

***Copiah Medical Associates v. Mississippi Baptist Health Systems*, 898 So. 2d 656, 658-64 (Miss. 2005):**

This case involves the question of whether the Copiah County Chancery Court or the Copiah County Circuit Court is the more appropriate forum to decide the underlying breach of contract claim. We authorized this interlocutory appeal after the

Specially-Appointed Chancellor denied a motion to transfer this case to the Copiah County Circuit Court or, alternatively, to dismiss or stay the proceedings pending resolution of a previously filed action in the Copiah County Circuit Court. We find that the suit unquestionably sounds in contract law instead of equity and that the chancellor erred when he denied the motion to transfer. . . .

We have consistently advised our trial courts that one must look at the substance, and not the form, of a claim to determine whether the claim is legal or equitable. We have recently said:

We have indicated that, if some doubt exists as to whether a complaint is legal or equitable in nature, that case is better tried in circuit court. In *McDonald's Corp. v. Robinson Indus., Inc.*, 592 So. 2d 927, 934 (Miss. 1991), we stated that “it is more appropriate for a circuit court to hear equity claims than it is for a chancery court to hear actions at law since circuit courts have general jurisdiction but chancery courts enjoy only limited jurisdiction.”

This position was reiterated in *Burch v. Land Partners, L.P.*, 784 So. 2d 925, 929 (Miss. 2001), where we found that “the circuit court is more adept to handle equity cases, rather than the chancery court to handle legal claims.”

We find that this breach of contract claim should have been brought in circuit court rather than chancery court and that an interlocutory appeal was the proper procedure for resolving the jurisdictional issue. . . . (Citations omitted).

***City of Starkville v. 4-County Elec. Power Ass'n*, 909 So. 2d 1094 1101-02 (Miss. 2005):**

In its order denying Starkville's motion to transfer this case to circuit court, the chancellor stated that “[s]ubject matter jurisdiction is determined from the allegations of the complaint. The complaint seeks specific performance of a contract which is an equitable remedy. . . .”

In *Trustmark*, we held that the circuit court erred in denying a motion to transfer to chancery court. In so doing, we readily acknowledged that most of our recently decided cases on the issue of transfer involved the question of whether a case commenced in chancery court should have been transferred to circuit court. We noted in *Trustmark* that the circuit court complaint, while asserting claims of negligence, breach of contract, breach of fiduciary duty and gross negligence, actually focused on the administration of a trust which had been under “the exclusive jurisdiction of the chancery court and has been since its inception.” We likewise stated in *Trustmark*:

The Plaintiffs counter that they seek legal action rather than equitable remedies and that subject matter jurisdiction is proper in the circuit court; however, the Plaintiffs concede that when determining the true nature of the claim, one must look at the substance, and not the form, of the claim in order to determine whether



the claim is legal or equitable. As Trustmark correctly asserts, “[a]lthough, the Plaintiffs employ the language of negligence and legal remedy, the fundamental substance of their claim is testamentary and equitable.”

When we review Starkville's complaint in today's case, we can state with confidence that the relief sought on specific performance of a contract is typically the type of relief to be considered by our chancellors sitting as a court of equity. Additionally, Starkville presumably made a knowing and conscious decision to commence this litigation in chancery court (as opposed to circuit court) when it filed its complaint in 1995. This case has been litigated in chancery court, appealed to this Court, and relitigated in chancery court. As we stated in *Rogers*, because the chancery court had already heard extensive litigation in the case, it was certainly in the best position to hear and resolve the relevant issues in the related case which had been commenced. In fact, in today's case, the same chancellor has been involved with the litigation of this case since its inception in 1995. Who was in a better position to fairly and correctly decide the issues in this case than the learned chancellor who had presided over all the proceedings in this case from the very beginning?

Thus, for the reasons stated, we find that the chancellor quite appropriately denied Starkville's motion to transfer this case to the Circuit Court of Oktibbeha County. (Citations omitted).

***Trustmark National Bank v. Johnson*, 865 So. 2d 1148, 1149-53 (Miss. 2004):**

In this case on interlocutory appeal from the Circuit Court of the First Judicial District of Hinds County, Mississippi, plaintiffs, as individual beneficiaries under the Ruth S. Biedenharn Trust, and as Guardian and Conservator for their brother, who is also an individual trust beneficiary, have sued Trustmark National Bank (Trustmark) for its allegedly negligent actions as Trustee arising solely in the administration of the Trust. Trustmark filed a counterclaim for declaratory judgment and moved to dismiss or transfer the matter to the Chancery Court of Warren County or, alternatively, to the Chancery Court of Pearl River County. The trial court denied Trustmark's motion. This Court granted Trustmark's petition for interlocutory appeal since it involves jurisdiction.

For the following reasons, we reverse the trial court's order denying a transfer to chancery court, and we remand this case to the Circuit Court of the First Judicial District of Hinds County for the entry of an order transferring this case to the Warren County Chancery Court. . . .

The Plaintiffs' complaint focuses on the administration of the Ruth S. Biedenharn Trust. Plaintiffs have labeled their claims against Trustmark as negligence, breach of contract, breach of fiduciary duty, and gross negligence. However, Trustmark's actions or inactions which are at issue arise solely from its capacity as the Trustee of the Ruth S. Biedenharn

Trust and any duty Trustmark may have arises from its appointment as Trustee. This action seeks to interpret the Trustee's obligations under the terms of the Trust. The Trust is under the exclusive jurisdiction of the Warren County Chancery Court and has been since its inception.

The Plaintiffs have brought a negligence action against the Trustee of the Ruth S. Biedenharn Trust, which has been under the jurisdiction of the Warren County Chancery Court since its inception. "In short, this proceeding is for determination of property rights in the assets of an estate being administered under the jurisdiction of the chancery court." Again, as we have already noted, numerous cases, . . . have clearly directed our trial courts to look to the substance of the claim rather than the form of the case.

We take this opportunity to inform the trial bench and bar of an ever-increasing problem we are encountering - this Court is inundated with interlocutory appeals, many of which involve the issue of whether a case has been appropriately commenced in circuit or chancery court. . . . We implore our learned trial judges to studiously and timely consider a motion to transfer based on subject matter jurisdiction to assure that jurisdiction is proper. . . .

The Plaintiffs' claims clearly involve the construction, interpretation, and administration of the Ruth S. Biedenharn Trust. The administration of Milton's share of the Trust assets are matters properly before the Warren County Chancery Court. Determining the appropriateness of any disbursements under the Trust requires the interpretation of that Trust. Any allegations of misuse of the Trust funds are matters to be decided by the Warren County Chancery Court. Even though the Plaintiffs have artfully pled a legal action, their claims attack the heart of the Ruth S. Biedenharn Trust, which lies in the bosom of the Warren County Chancery Court. As such, we find that the Circuit Court of the First Judicial District of Hinds County erred when it denied Trustmark's Motion To Dismiss or To Transfer. We thus reverse the order denying a transfer to chancery court and remand this case to the Circuit Court of the First Judicial District of Hinds County with instructions to forthwith enter an order transferring this case to the Chancery Court of Warren County. (Citations omitted).

***Union National Life Ins. Co. v. Crosby, 870 So. 2d 1175, 1178-82 (Miss. 2004):***

The complaint, which is entitled "Complaint for Injunction, Accounting and Related Relief," states as follows:

This is an action seeking redress for a fraudulent scheme and course of conduct involving deceptive sales practices, unconscionable conduct, overreaching, fraud and deception by the Insurance Defendants relating to the training of their agents; the marketing, sales, and administration of its policies by the Insurance Defendants and by the employees including the Agent Defendants, who wilfully, knowingly, and intentionally participated directly in the tortious acts complained of herein.

Crosby raises the following claims: fraud, fraudulent inducement, breach of duty of good faith and fair dealing, tortious breach of contract, breach of fiduciary duty, assumpsit, unjust enrichment, negligence, gross negligence, multiple violations of the Mississippi Consumer Protection Act, and conversion. Crosby requests relief in the following forms: constructive trust, accounting, injunctive relief, actual damages and punitive damages. . . .

Crosby's assertion of chancery court jurisdiction as to her claims of fraud and fraudulent inducement fails: "Although acts of fraud may give rise to actions in equity, it is apparent that [Crosby] seeks a legal, rather than an equitable remedy. Specifically, [Crosby's] complaint seeks actual damages and punitive damages, and this remedy is clearly legal rather than equitable in nature." . . .

A realistic and pragmatic review of the complaint leads us to the conclusion that this is a lawsuit that should be in circuit court, not chancery court.

"[I]t is more appropriate for a circuit court to hear equity claims than it is for a chancery court to hear actions at law since circuit courts have general jurisdiction but chancery courts enjoy only limited jurisdiction."

The record clearly shows that each and every one of Crosby's claims, even the equitable claims of unjust enrichment and constructive trust, arise from the sale and alleged breach of an insurance contract. Crosby contends that the complaint does not arise from the sale and alleged breach of an insurance contract; rather, she claims that the complaint arises from the sales, administration and service of the insurance contract. This argument ignores the fact that, unless there was a contractual relationship between Union National and Crosby, she would have no claims arising from the sales, administration and service of the insurance policy. Rights and duties arising from an insurance policy are construed according to the laws of contract. The alleged mismanagement and misappropriation of premium money concerns Crosby's contractual duty to pay for the insurance policy and Union National to provide her coverage.

Since Crosby's complaint sounds in tort and contract, we find that the chancellor erred in denying Union National's motion to transfer to circuit court. Therefore, we reverse the chancery court's order and remand to the Chancery Court of Covington County with instructions to transfer this case to the Circuit Court of Covington County. (Citations omitted).

***Southern Leisure Homes, Inc. v. Hardin*, 742 So. 2d 1088, 1089-91 (Miss. 1999):**

The Hardins' complaint alleged that Southern had unlawfully breached a contract to sell the Hardins a mobile home and that following this breach, Southern had improperly refused to return a \$2,350.00 down payment which the Hardins had made. Southern

responded with a motion to dismiss the Hardins' claim based on a lack of subject matter jurisdiction, or alternatively, to transfer the case to the Circuit Court of Washington County. Southern argued that the causes of action raised by the Hardins were legal rather than equitable in nature and that jurisdiction properly rested with the circuit court. The Chancellor denied these motions and set the case for trial in chancery court. Southern was granted an interlocutory appeal before this Court. . . .

The Mississippi Constitution of 1890 limits the jurisdiction of chancery court to certain specified areas. . . . Article 6, § 162 of the Mississippi Constitution further provides that “all causes that may be brought in the chancery court whereof the circuit court has exclusive jurisdiction shall be transferred to the circuit court.”

As noted above, the chancery court's jurisdiction is limited to certain specified areas, and the only area which Hardin even attempts to argue as being applicable to the present case is the “all matters in equity” category. . . .

We find the Hardins' argument unpersuasive. Although acts of fraud may give rise to actions in equity, it is apparent that the Hardins seek a legal, rather than an equitable remedy in the present case. Specifically, the Hardins' complaint seeks \$10,000.00 in actual damages and \$100,000.00 in punitive damages, and this remedy is clearly legal rather than equitable in nature.

It should be noted that the chancery courts of this State have the discretion to award legal and even punitive damages as long as the chancery court's jurisdiction has attached. We nevertheless conclude, however, that the present case is essentially a breach of contract claim which is best heard in circuit court. This Court has indicated that, in cases in which some doubt exists as to whether a complaint is legal or equitable in nature, the better practice is to try the case in circuit court. This Court stated in *McDonald's Corp. v. Robinson Indus., Inc.*, 592 So. 2d 927, 934 (Miss. 1991), for example, that “[i]t is more appropriate for a circuit court to hear equity claims than it is for a chancery court to hear actions at law since circuit courts have general jurisdiction but chancery courts enjoy only limited jurisdiction.”

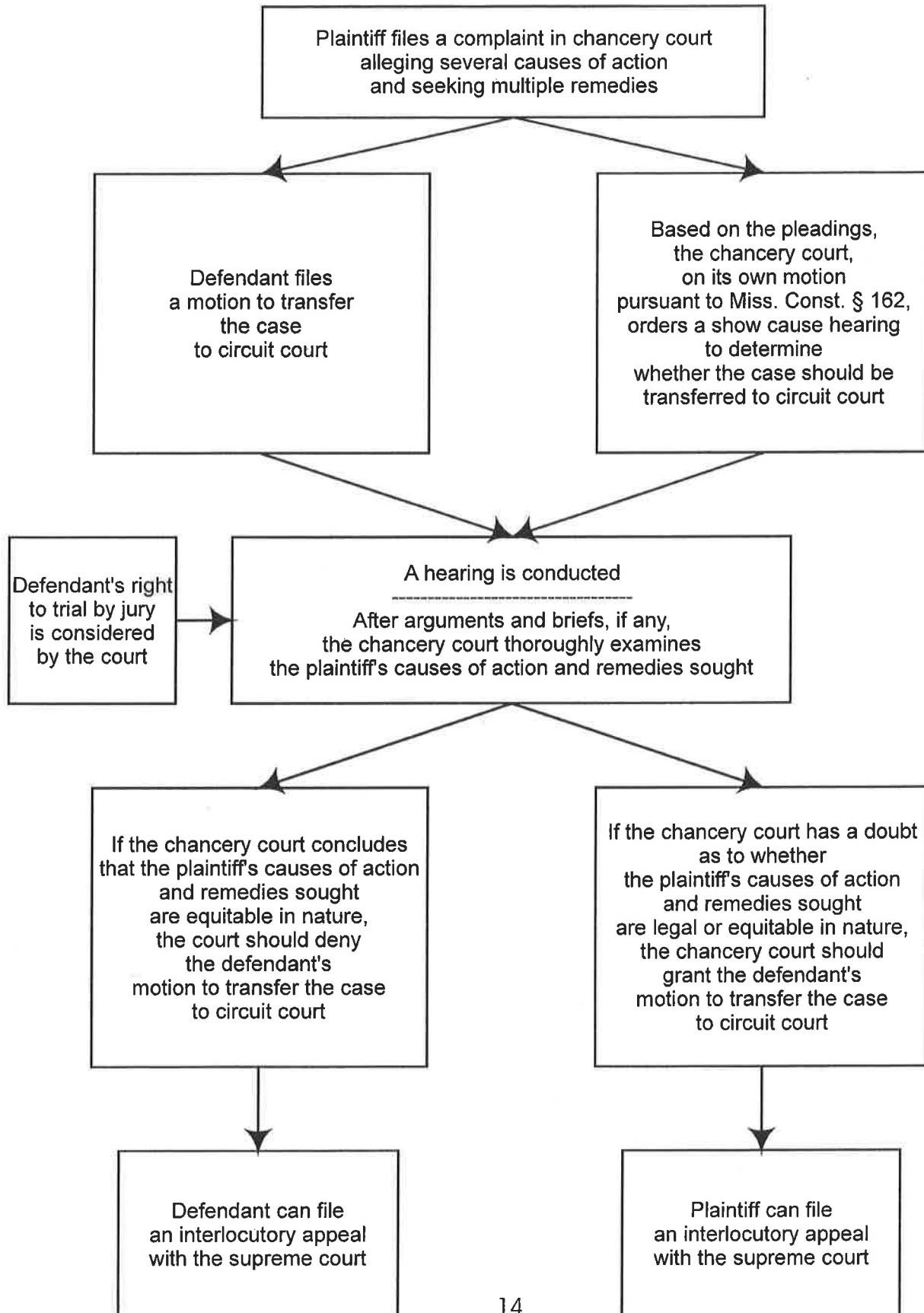
This Court considers the present lawsuit to be clearly legal in nature, but, even assuming that some doubt existed in this regard, it is apparent that this doubt should be resolved in favor of Southern's position. The Mississippi Constitution, Article 3, § 31 provides in part that the “right of trial by jury shall remain inviolate” and it is apparent that Southern's right to a jury trial would be infringed upon if this case were heard in chancery court. . . .

The trial court's ruling is accordingly reversed, and we remand this case to the Chancery Court of Washington County with directions that it shall promptly transfer this case to the Circuit Court of Washington County. (Citations omitted).

<b>Which Actions are Equitable or Legal</b>			
<b>Cause of Action or Relief Sought</b>	<b>Nature of Action</b>	<b>Court</b>	<b>Citation</b>
Assumpsit after the contract is void & unenforceable	Equity	Chancery	<i>Union Nat'l Life Ins. v. Crosby</i> , 870 So. 2d 1175, 1180 (Miss. 2004).
Assumpsit where the contract is not void	May be Law	Circuit	<i>Union Nat'l Life Ins. v. Crosby</i> , 870 So. 2d 1175, 1180 (Miss. 2004).
Breach of contract involving marital or divorce claims	Equity	Chancery	<i>Germany v. Germany</i> , 123 So. 3d 423, 431 (Miss. 2013).
Breach of contract where actual damages are sought	Law	Circuit	<i>Southern Leisure Homes, Inc. v. Hardin</i> , 742 So. 2d 1088, 1090 (Miss. 1999).  <i>Tyson Breeders, Inc. v. Harrison</i> , 940 So. 2d 230, 231-34 (Miss. 2006).
Breach of contract where specific performance is sought & contract is valid	Equity	Chancery	<i>City of Starkville v. 4-County EPA</i> , 909 So. 2d 1094, 1102 (Miss. 2005).
Breach of contract where specific performance is sought in a land sale	Equity	Chancery	<i>Copiah Med. Assoc. v. Baptist Health Sys.</i> , 898 So. 2d 656, 660 (Miss. 2005).  <i>Derr Plantation, Inc. v. Swarek</i> , 14 So. 3d 711, 717-720 (Miss. 2009).
Breach of duty of good faith and fair dealing	Law	Circuit	<i>Union Nat'l Life Ins. v. Crosby</i> , 870 So. 2d 1175, 1180 (Miss. 2004).
Breach of fiduciary duty (Tort action)	Law	Circuit	<i>Union Nat'l Life Ins. v. Crosby</i> , 870 So. 2d 1175, 1180 (Miss. 2004).
Constructive trust	Equity	Chancery	<i>Union Nat'l Life Ins. v. Crosby</i> , 870 So. 2d 1175, 1180 (Miss. 2004).
Conversion (Intentional tort)	Law	Circuit	<i>Union Nat'l Life Ins. v. Crosby</i> , 870 So. 2d 1175, 1181 (Miss. 2004).

<b>Which Actions are Equitable or Legal</b>			
Fraud where actual or punitive damages are sought	Law	Circuit	<i>Union Nat'l Life Ins. v. Crosby</i> , 870 So. 2d 1175, 1179 (Miss. 2004).
Fraud where an equitable relief is sought	Equity	Chancery	<i>Southern Leisure Homes, Inc. v. Hardin</i> , 742 So. 2d 1088, 1090 (Miss. 1999).
Fraudulent inducement where actual or punitive damages are sought	Law	Circuit	<i>Union Nat'l Life Ins. v. Crosby</i> , 870 So. 2d 1175, 1179 (Miss. 2004).
Gross negligence (Tort action)	Law	Circuit	<i>Union Nat'l Life Ins. v. Crosby</i> , 870 So. 2d 1175, 1181 (Miss. 2004).
Injunctive relief (No adequate remedy at law)	Equity	Chancery	<i>Union Nat'l Life Ins. v. Crosby</i> , 870 So. 2d 1175, 1181 (Miss. 2004).
Negligence (Tort action)	Law	Circuit	<i>Union Nat'l Life Ins. v. Crosby</i> , 870 So. 2d 1175, 1181 (Miss. 2004).
Negligence in management of trust under the jurisdiction of the chancery court	Equity	Chancery	<i>Trustmark Nat'l Bank v. Johnson</i> , 865 So. 2d 1148, 1153 (Miss. 2004).
Punitive damages	Law	Circuit	<i>ERA Franchise Sys., Inc v. Mathis</i> , 931 So. 2d 1278, 1282 (Miss. 2006).
Stockholder derivative action (not seeking personal claims)	Equity	Chancery	<i>ERA Franchise Sys., Inc v. Mathis</i> , 931 So. 2d 1278, 1281 (Miss. 2006).
Tortious breach of contract	Law	Circuit	<i>Union Nat'l Life Ins. v. Crosby</i> , 870 So. 2d 1175, 1180 (Miss. 2004).
Unjust enrichment	Equity	Chancery	<i>Union Nat'l Life Ins. v. Crosby</i> , 870 So. 2d 1175, 1180 (Miss. 2004).
Violations of the Mississippi Consumer Protection Act	Law	Circuit	<i>Union Nat'l Life Ins. v. Crosby</i> , 870 So. 2d 1175, 1181 (Miss. 2004).

## ***Motion to Transfer from Chancery Court to Circuit Court***



**Motion to Transfer from Circuit Court to Chancery Court**

