

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

**FILED**

MAY 02 2013

BARBARA DHNN, CIRCUIT CLERK

BY Phaley D.C.  
oe

DIVERSEY, INC.

Plaintiff,

v.

MISSISSIPPI PRODUCTS, INC.

CAUSE NO. 12-04674

Defendants.

**DEFENDANT MISSISSIPPI PRODUCTS, INC.'S**  
**ANSWER AND AFFIRMATIVE DEFENSES**

COMES NOW, Defendant Mississippi Products, Inc. ("Mississippi Products"), by and through its attorneys of record, and files this Answer to the Complaint filed by Plaintiff Diversey, Inc. ("Diversey"), as follows:

**I. PARTIES**

A. Mississippi Products is without knowledge as to allegations contained in paragraph I.A. of the Complaint and, therefore, demands strict proof thereof.

B. Mississippi Products admits only that it is a Mississippi corporation with its principal place of business located in Hinds County, Mississippi.

**II. JURISDICTION AND VENUE**

Upon information and belief, admitted.

**III. FACTS**

Mississippi Products admits only that a purported "Statement of Account" is attached to the Complaint, the terms of which speak for themselves. The remaining allegations of this paragraph of the Complaint are denied.

A. Denied.

B. Denied.

Mississippi Products denies that Plaintiff is entitled to any relief and specifically denies all allegations contained in the unnumbered paragraph which begins "WHEREFORE, PREMISES CONSIDERED." Mississippi Products further denies any and all allegations not specifically admitted herein and respectfully request that the Court enter its Order dismissing this case with all costs, fees, and expenses taxed to the Plaintiff.

### **AFFIRMATIVE DEFENSES**

And in further defense of the Complaint, Mississippi Products relies upon the following other and further defenses:

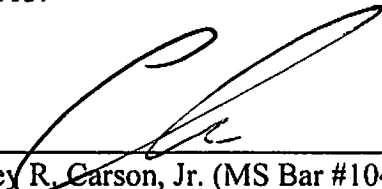
1. The Complaint fails to state a claim upon which relief can be granted and, therefore, should be dismissed.
2. Plaintiff's claims are barred by the statute of frauds.
3. Plaintiff's claims are barred by the applicable statute of limitations.
4. Plaintiff's claims are barred by the equitable doctrine of unclean hands.
5. Plaintiff's claims are barred for lack of privity with Mississippi Products.
6. Plaintiff's claims are barred in whole or in part by the doctrine of accord and satisfaction.
7. Plaintiff's claims must fail to the extent that it has failed to mitigate any damages.
8. If Plaintiff has suffered any damages, the damages were caused, in whole or in part, by the acts or omissions of third parties for whom Mississippi Products should not be held responsible.
9. Plaintiff's claims are barred, in whole or in part, by contributory and/or comparative negligence.

10. Plaintiff's claims are barred for failure to join necessary and/or indispensable parties.

11. Discovery has not been conducted, and, therefore, to the extent permitted by law, Mississippi Products reserves the right to add additional defenses and affirmative defenses and do not waive any rights, privileges, defenses, or affirmative defenses not specifically asserted herein.

12. Mississippi Products further reserves the right to join necessary parties as permitted by the Mississippi Rules of Civil Procedure.

Respectfully submitted, this the 2<sup>nd</sup> day of May, 2013.



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Dorsey R. Carson, Jr. (MS Bar #10493)  
Christopher D. Meyer (MS Bar #103467)  
Attorneys for Defendant  
MISSISSIPPI PRODUCTS, INC.

**OF COUNSEL:**  
BURR & FORMAN LLP  
The Heritage Building  
401 East Capitol Street, Suite 100  
Jackson, Mississippi 39201  
T: 601-355-3434  
F: 601-355-5150

**CERTIFICATE OF SERVICE**

I, Christopher D. Meyer, do hereby certify that I have this, the 2<sup>nd</sup> day of May, 2013, delivered, via United States Mail, postage prepaid, a true and correct copy of the above and foregoing to the following:

J. Ward Conville, Esq.  
Lisa L. Meggs, Esq.  
Benjamin G. Lambert, Esq.  
COUCH, CONVILLE & BLITT, PLLC  
1301 West Pine Street  
Hattiesburg, Mississippi 39403

  
\_\_\_\_\_  
OF COUNSEL



*results matter*

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May 2, 2013

**VIA HAND DELIVERY**

Ms. Barbara Dunn  
County Court of Hinds County  
407 E. Pascagoula Street  
Jackson, Mississippi 39201

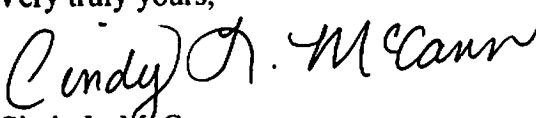
**Re: *Diversey, Inc. v. Mississippi Products, Inc.*  
In the County Court of Hinds County, First Judicial District, Mississippi  
Cause No. 12-34674**

Dear Ms. Dunn:

Please find enclosed an original and one copy of Defendant Mississippi Products, Inc.'s Answer and Affirmative Defenses to the Complaint in the above-referenced matter. Please file the original and return the copy stamped "filed" to me via the courier.

Thank you for your assistance in this matter. If you have any questions, please do not hesitate to contact me.

Very truly yours,

  
Cindy L. McCann

/clm

Enclosure

cc: All Known Counsel of Record