

IN THE UNITED STATES ENVIRONMENTAL PROTECTION  
AGENCY REGION 5

MARDAPH II, L.L.C;  
MARDAPH III, L.L.C;  
AND VINNIE B. WILSON  
RESPONDENTS

) DOCKET NO. TSCA-05-2008-  
0019.

) HONORABLE: REGIONAL/  
JUDICIAL OFFICER:

RECEIVED  
APR 17 2009

REGIONAL HEARING CLERK  
U.S. ENVIRONMENTAL  
PROTECTION AGENCY

RESPONDENTS REPLY IN OPPOSITION  
TO THE COMPLAINANT'S MOTION

NOW COMES RESPONDENT VINNIE B. WILSON,  
HEREIN, PRO SE CAPACITY, PURSUANT TO THE  
SAID REGIONAL JUDICIAL OFFICER'S ORDER,  
OF MARCH 19, 2009, DENYING COMPLAINANT'S  
MOTION FOR DEFAULT IN THE ABOVE CITED  
CASE NUMBER.

AN ACCOMPANYING MEMORANDUM OF LAW,  
IN SUPPORT OF RESPONDENT'S REPLY RESPONSE  
IN OPPOSITION TO THE COMPLAINANT OR  
U.S. EPA) HEREIN ~~BEFORE~~ AND AFTER FILES  
RESPONSE TO THE SAID RESPONDENT VINNIE  
B. WILSON'S MOTION BOUNDS CITATION AUTHORITY  
CASE LAWS ARE SET FORTH IN THE ATTACHED  
MEMORANDUM HEREOF,

RESPECTFULLY SUBMITTED  
X Vinnie B. Wilson  
VINNIE B. WILSON  
"PRO SE / RESPONDENT"

## MEMORANDUM IN SUPPORT OF MOTION

ON/OR ABOUT MARCH 19, 2009, IN CASE DOCKET NUMBER TSCA-05-2008-0019, COMPLAINANT UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, (U.S. EPA) HEREIN FILED A-RESPONSE TO THE SAID RESPONDENTS VANNIE B. WILSONS, ENTITLED FILED-A-" MOTION FOR AN ORDER SETTING ASIDE A MOTION FOR DEFAULT JUDGMENT, AND/OR IN THE ALTERNATIVE, MOTION FOR AN EVIDENTIARY DEFAULT HEARING BEFORE AN OFFICIAL HEARING BOARD PANEL.

RESPONDENT SUBMITTED AN ENTITLED " DOCUMENT TITLED "AFFIDAVIT STATEMENTS, WHICH RESPONDENT'S PROSE MOTION STATUS, WAS ENTERTAINMENT AND TREATED BY THE SAID REGIONAL JUDICIAL OFFICER AS A MOTION FOR DISMISSAL OF THE COMPLAINT NOT BEING VERIFIED BY THE COMPLAINANT (UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, THUS, SINCE THE U.S. EPA FILED AN ADMINISTRATIVE COMPLAINT AGAINST THE RESPONDENTS, AND RESPONDENT VANNIE B. WILSON, ON THE DATE OF AUGUST 4<sup>TH</sup> 2008, ALLEGING (47) VIOLATIONS OF THE TOXIC SUBSTANCES CONTROL ACT (TSCA).

ON THE DATE OF JANUARY 22, 2009, THE SAID COMPLAINANT'S (U.S. EPA), MOVED FOR AN ENTRY OF A DEFAULT ORDER AGAINST SAID RESPONDENT VINNIE B. WILSON, ALLEGING (47) VIOLATIONS OF THE TOXIC SUBSTANCES CONTROL ACT (TSCA).

RESPONDENT FAILURE TO TIMELY FILE AN ANSWER WITHIN (30) DAYS OF SERVICE, UPON, COMPLAINANT (U.S. EPA) FILED AN ADMINISTRATIVE COMPLAINT AGAINST SAID RESPONDENTS, WHICH WAS NOT A "VERIFIED" COMPLAINT.

SEE: REQUIREMENT OF RULE 23.1 OF FEDERAL RULES OF CIVIL PROCEDURE, WHICH STATES, IN THE PROVISION SECTION 23.1:3. VERIFIED COMPLAINT.

"RULE 23.1 REQUIRES VERIFICATION OF THE DERIVATIVE ACTION COMPLAINT TO DISCOURAGE SUITS BY PLAINTIFFS WHO HAVE NO REASON TO BELIEVE THAT THE ACCUSATIONS MADE IN THEIR COMPLAINTS ARE TRUE. RULE 23.1 DOES NOT SPECIFY WHO IS TO VERIFY THE COMPLAINT IN A DERIVATIVE ACTION, BUT THE INTERPRETATION OF THE REQUIREMENT IS THAT THE PLAINTIFF, NOT COUNSEL, SHOULD EXECUTE THE VERIFICATION."

ON THE GIVEN DATE OF FEBRUARY 20, 2009,  
SAID RESPONDENT VANNIE B. WILSON, FILED-A-  
WRITTEN PRINTED PRO'SE MOTION ENTITLED "  
MOTION FOR AN ORDER, SETTING ASIDE THE SAID  
COMPLAINANT'S, MOTION FOR DEFAULT JUDGMENT  
AND/OR, IN THE ALTERNATIVE, MOTION FOR AN  
EVIDENTIARY DEFAULT HEARING BEFORE AN  
OFFICIAL HEARING BOARD PANEL.

MOREOVER, IN THE INSTANT CASE AT HAND,  
RESPONDENT'S MOTION" WITH THAT MOTION, RESPONDENT  
WILSON SUBMITTED A SWORN DOCUMENT ENTITLED  
"AFFIDAVIT STATEMENTS, NOTARIZED BY AN  
OFFICIAL NOTARY PUBLICIAN, WHICH CLEARLY  
SHOWS "GOOD CAUSE AND SUBSTANTIAL OPERATIVE  
FACTS, WHY, A-DE FAULT JUDGMENT" SHOULD BE  
SET ASIDE, AND REQUESTED AN OPPORTUNITY TO  
BE HEARD IN PERSON.

RESPONDENT ALSO SUBMITTED SEVERAL  
APPENDIX-EXHIBITS TO SUFFICIENTLY SUPPORT  
(HER) FACTUAL ALLEGATIONS, WHICH ENTITLED  
"NOTICE OF THE DEFAULT HEARING, AND AN  
OPPORTUNITY TO PUT THE SAID COMPLAINANT  
(U.S. EPA) TO HIS PROOF AT THE DEFAULT  
HEARING. BEFORE A DEFAULT JUDGMENT FOR  
A DEFAULT JUDGMENT OF \$UM AMOUNT FOR  
\$91,0901 NINETY ONE THOUSAND, AND NINETY DOLLARS  
WAS ENTERED AGAINST THE SAID RESPONDENT  
VANNIE B. WILSON, BY THE COMPLAINANT'S  
U.S. EPA)'S UN-CLAIMED TRUE-VERIFIED  
COMPLAINANT.

11  
RESPONDENT'S SUBSTANTIAL REASONS  
WHY COMPLAINANT'S RESPONSE TO THE  
RESPONDENT'S MOTION TO DISMISS  
FOR FAILURE TO STATE A CLAIM  
UPON WHICH RELIEF COULD BE GRANTED  
ACCORDINGLY, COMPLAINANT'S (U.S. EPA)  
RESPONSE/MOTION, SHOULD BE DENIED  
BY ORDER OF THE SAID HONORABLE PRE-  
SIDING HEARING OFFICER

IN THE INSTANT CASE, UNDER THE FEDERAL  
RULES, PURSUANT<sup>to</sup> TO CIVIL RULE 12(B) RULES  
OF PROCEDURE, THE FILING OF AN ENTITLED  
MOTION TO DISMISS FOR FAILURE TO STATE  
A CLAIM SUSPENDS THE TIME TO ANSWER THE SAID  
COMPLAINANT (U.S. EPA) COMPLAINT, AND HEREBY  
"AVOIDS DEFAULT."

ON THE DATE OF MARCH, 19, 2009, THE  
SAID U.S. (EPA) REGIONAL JUDICIAL OFFICER,  
DENIED COMPLAINANT'S ASSISTANT REGIONAL COUNSEL'S  
U.S. (EPA) MOTION FOR DEFAULT. HOWEVER,  
IN CONSIDERATION OF THE SAID RESPONDENT'S  
WILSON'S "PRO'SE" STATUS" CLAIM OF MEDICAL  
IMPAIRMENT, (HER) ATTEMPTS TO MARSHAL A "  
DEFENSE TO THE COMPLAINANT'S U.S. EPA ORIG-  
INAL COMPLAINT FILED ON THE DATE OF AUGUST  
4<sup>th</sup> 2008.

THE SAID JUDICIAL OFFICER OF U.S.  
(EPA), WENT ON TO (STATE THAT \_ \_ \_ \_ \_

UPON DENIAL OF COMPLAINANT (U.S. EPA) MOTION FOR DEFAULT. IN ADDITION, I CONSIDER, RESPONDENT'S MOTION TO HAVE PLAINLY MOVED FOR DISMISSAL OF THE COMPLAINT ON THE GROUNDS THAT IT FAILS TO STATE A CLAIM UPON WHICH RELIEF CAN BE GRANTED BECAUSE IT WAS NOT ACCOMPANIED BY THE AFFIDAVIT OF VERIFICATION OF PROOF FOR A VERIFIED ADMINISTRATIVE COMPLAINT.

SEE: MILLER-US- GENERAL MOTORS CORP. NO. 55200 (8TH DIST. CT. APP. CUYAHOGA, MAR. 30, 1989) - 1989 OHIO APP. LEXIS, 1099, 13 ALSO; SEE: CLEMONS - VS - NOLAND NO. 77 AP. 644 10<sup>TH</sup> DIST. CT. APP, FRANKLIN, FEBRUARY 2<sup>ND</sup> 1978 (1978 OHIO APP. LEXIS 9880)

" A DERIVATION ACTION CLAIM THAT DOES NOT CONTAIN ALL THE REQUIREMENTS PLEADINGS OF CIVIL RULE 23.1, FAILS TO STATE CLAIM UPON WHICH RELIEF CAN BE GRANTED.

IN THIS CASE, THE RESPONDENT RESPECTFULLY STATES THAT THE SAID COMPLAINANT (U.S. EPA) OFFICE OF REGIONAL COUNSEL DID NOT FAIRLY AND ADEQUATELY REPRESENT THE INTEREST OF THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY REGION (S) OF HIS PROFESSIONAL ESSENTIAL AS A "COMPETENT" ATTORNEY UPON ENFORCING THE RIGHT DUTY OF THE AGENCY TO FILE A VERIFIED ADMINISTRATIVE COMPLAINT (LAW SUIT)

" A CAREFUL REVIEW OF RESPONDENT'S MOTION DEMONSTRATES THAT IT DOES NOT "CLEARLY AND DIRECTLY, ADMIT, DENY, OR EXPLAIN EACH OF THE ~~FACTUAL~~ ALLEGATIONS CONTAINED IN THE, AND THUS, DOES NOT MEET REQUIREMENT OF AN ANSWER. 40 C.F.R. SECTION 22.15 (b) IT DOES, HOWEVER, SPECIFICALLY REQUEST A HEARING AND SET FORTH CIRCUMSTANCES OR ARGUMENTS WHICH COULD CONSTITUTE THE GROUNDS OF CERTAIN DEFENSES.

## ARGUMENTS

IN THIS CASE AT HAND, THUS, THE SAID RESPONDENT RESPECTFULLY STATES THAT A THOROUGH, "READING OF THE COMPLAINANT'S RESPONSE TO THE RESPONDENT'S MOTION TO DISMISS," WHICH COULD RESULT IN A FINAL JUDGMENT IN THE SAID COMPLAINANT'S U.S. EPA'S FAVOR BEFORE TRIAL.

IN THIS PARTICULAR, RESPONDENT'S BY HERSELF SUFFERS "A DISASTER AS A RESULTS OF THE SAID "REGIONAL JUDICIAL OFFICER OF THE U.S. EPA, UTILIZING THE CONSIDERATION OF RESPONDENT WILSON PROISE" STATUS UPON THAT OF AN "ILLEGITIMATE" MOTION TO DISMISS, WHICH IN FACT WILL TURN OUT TO BE AN INAPPROPRIATE MEANS OF CONSIDERATION OF RESPONDENT'S ASSERTING (HER) PROISE STATUS-DEFENSE.

UPON WHICH RELIEF CAN BE GRANTED, PURSUANT TO RULE 12(B). ACCORDINGLY, RESPONDENT, WENNIE B. WILSON, DOCUMENTARY PROOF OF EVIDENCE, AFFIDAVIT STATEMENTS AND EXHIBITS, IN SUPPORT OF AN ALTERNATIVE MOTION REQUEST FOR AN EVIDENTIARY HEARING.

EVEN THOUGH, THE JUDICIAL OFFICER, RECONSIDER RESPONDENT'S MOTION FOR A DISMISSAL, THUS, THE HONORABLE PRESIDING (ALJ) HAS A "LIGHTER-MILITARY JUDICIAL INHERENTED POWER AND AUTHORITY TO "CONVERT" THE MOTION TO DISMISS INTO "RESPONDENT'S PROSE STATUS DEFENSE, "MOTION FOR SUMMARY JUDGMENT.

IN THIS INSTANT CASE, MORE LENIENT STANDARDS OF COMPETENCE AND COMPLIANCE SHOULD APPLY TO THE RECONSIDERATION OF THE SAID RESPONDENT'S. NEVER, THE, LESS, THIS PROSE RESPONDENT RELIES UPON EVIDENCE OF DOCUMENTARY MATTERS, OUTSIDE THE SAID RECORDS, PLEADINGS, OF THE COMPLAINANT'S COMPLAINT ACTION, WHICH DOES NOT SATISFY THE MANDATORY REQUIREMENTS OF RULE 23.1 FEDERAL RULES OF CIVIL PROCEDURE.

RESPONDENT'S STATES, FURTHER, SPECIFIC ALLEGATIONS WHICH MUST BE STATED IN THE SAID COMPLAINANT COMPLAINT CAUSE OF ACTION WAS NOT VERIFIED; AND WHICH THE COMPLAINT MUST BE VERIFIED WHEN OR BEFORE MAY BE FILED AS A VERIFIED COMPLAINT.



## CONCLUSION

IN THE LIGHT OF FACTS, AND STATEMENTS, INVOLVED HEREIN THE CONCLUSION OF THE SAID COMPLAINANTS, MOTION RESPONSE TO SAID RESPONDENT'S SUGGESTIVE RECONSIDERED " MOTION FOR DISMISSAL BY THE U.S. E.P.A'S JUDICIAL HEARING OFFICER ON THE DATE OF MARCH 19, 2009.

HOWEVER, IS NOTHING MUCH MORE THAN, COVERING-UP, THE COMPLAINANT'S ASSISTANT REGIONAL COUNSEL'S IN-EXCUSABLE NEGLIGENCES, WHERE SAID COMPLAINANT "COUNSEL" DOES NOT FAIRLY AND COMPETENTLY REPRESENT THE INTEREST OF THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY REGION (5), FOR THE FAILURE TO FILE A VERIFIED COMPLAINT IN CASE NO. DOCKET AS. TSEA-05-2008-0019.

IN THE ABOVE MENTIONED DOCKET CASE NUMBER, THE SAID COMPLAINANT COMPLAINT IN THE INSTANT CASE DOES NOT COMPLY WITH CIVIL RULE 23.1 FEDERAL RULES OF PROCEDURES. IN THE SAID RESPONDENT'S CASE. THUS, THE HONORABLE PRESIDING JUDICIAL LAW HEARING OFFICIAL WAS THE SOLE " INHERENTED POWER AND AUTHORITY TO "CONVERT THE CONSIDER MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM \_

RESPONDENT RESPECTFULLY SUBMITS IN GOOD FAITH THAT THE COMPLAINANT'S COMPLAINT WAS NOT VERIFIED, AND MUST BE SUMMARY DISMISSED ACCORDING TO THE LAW.

IN THE HEART OF RULE 23.1 (FRCP) RESPONDENT RESPECTFULLY REQUEST THE HONORABLE (ALJ) OFFICIALS TO DISMISS THE COMPLAINT ON MOTION FOR SUMMARY JUDGMENT FOR FAILURE TO PRESENT A CLAIM UPON WHICH RELIEF SHOULD BE GRANTED IN THE FAVOR OF SAID RESPONDENT VIWNIE B. WILSON.

THE COMPLAINT WAS ISSUED THE AUTHORITY DELEGATED TO THE DIRECTOR OF THE LAND AND CHEMICAL DIVISION OF THE U.S. EPA IN AGENT REGION(S) FAILS TO SATIFY AND SPECIFICALLY SET FORTH A FUTILE" ALLEGATIONS AND CLEARLY ~~DOES~~ NOT MEETS" THE MANDATORY REQUIREMENTS OF FEDERAL RULE 23.1 (FRCP) AND CAN NOT BE SUPPLEMENTED BY THE LAW OF EXCUSABLE NEGLIGENCE BY THE COMPLAINANT (U.S. EPA'S, ASSISTANCE REGIONAL COUNSEL SEE: RULE 23.1.5) (FRCP)

WHEREFORE, FOR THE FOREGOING SUBSTANTIAL REASONS INVOLVED HEREIN, RESPONDENT RESPECTFULLY REQUEST THE HONORABLE ALJ (HEARING) PRESIDING OFFICER TO DISMISS THE COMPLAINT ON SUMMARY JUDGMENT IN FAVOR OF SAID RESPONDENT WHERE SAID COMPLAINT WAS NOT VERIFIED COMPLAINT —

ACCORDING, RESPONDENT VENNIE B WILSON,  
RESPECTFULLY REQUEST THE HONORABLE (ALJ)  
PRESIDING LAW OFFICER TO ISSUE AN ORDER,  
DENYING COMPLAINANT U.S. EPA MOTION  
RESPONSE TO THE JUDICIAL HEARING OFFICER,  
ORDER, TO CONSIDER RESPONDENT MOTION FOR  
DISMISSAL TO CONVERT INTO A MOTION FOR SUMMARY  
JUDGMENT. RESPONDENT FURTHER PRAY THAT THE  
PRESIDING (ALJ) CONVERT THE SAID MOTION  
INTO A MOTION FOR SUMMARY JUDGMENT  
WHERE COMPLAINANT FAILURE TO PRESENT A  
CLAIM UPON WHICH RELIEF CAN BE GRANTED  
ACCORDINGLY TO SUCH MATTERS, IN SUPPORT,  
RELIED OUTSIDE OF THE ORIGINAL COMPLAINT  
PLEADINGS AND FILES OF THE RECORDS.

RESPONDENT REQUEST THE COMPLAINANT  
ATTEMPT MOTION IN "VEIN" BE DEEMED AN  
~~INAPPROPRIATE ATTACK~~ WHICH GIVES THE PRESID-  
ING U.S. EPA) "POWER TO CONVERT" MOTION  
TO DISMISS ~~ED TO~~ MOTION FOR SUMMARY  
JUDGMENT FOR FAILURE TO PRESENT A CLAIM UPON WHICH RELIEF  
CAN BE GRANTED AND ANY RELIEF FURTHER, IT'S  
SEEMS, JUST, NECESSARY, AND MOST APPROPRIATED  
ACCORDING TO LAW.

RESPECTFULLY SUBMITTED  
Vennie B. Wilson  
VINNIE B. WILSON  
POST OFFICE BOX # 317639  
CINCINNATI, OHIO 45231  
PHONE: 513-616-2510

IN THE UNITED STATES ENVIRONMENTAL PROTECTION  
AGENCY REGION(S)

IN THE MATTERS,

DOCKET NO. T.S.C.A. - 05  
2008-0019

VINNIE B. WILSON  
RESPONDENT

STATE OF OHIO }  
HAMILTON COUNTY, OHIO. } SS:

AFFIDAVIT STATEMENT VERIFICATION PROOF OF MOTION.

I, VINNIE B. WILSON, THE UNDERSIGNED  
AFFIANT BEING FIRST SWORN AND CAUTIONED TO  
THE APPLICATION OF LAW, DEPOSES AND ALLEGELY  
STATES, THAT, I AM THE RESPONDENT IN THE CAUSE  
OF ACTION MAINTAINED IN THE MATTERS OF THE  
SAID MOTION REPLY TO THE COMPLAINANT U.S.  
(EPA) MOTION RESPONSE, AND THE U.S EPA, ORDER  
OF ENTRY, CONSIDERATION OF MOTION FOR DIS-  
MISSAL

I FURTHER STATES THAT THE CONTENTS, STATE-  
MENT AND INFORMATION ALLEGED ARE ALL OF  
TRUTH TO THE VERY BEST OF MY KNOWLEDGE  
AND BELIEF AND ACCURATE, OR CORRECT TO  
THE BEST MY KNOWLEDGE. UNDER ALL PENALTIES  
OF LAW, AND PERJURY, I STATES THAT THE  
STATEMENTS TRUE AS I VERIFY THAT THE ATTACHED  
MOTION.

AFFIANT FURTHER SAYETH NAUGHT.

X Vinnie B. Wilson  
~~AFFIANT VINNIE B. WILSON~~

RECEIVED  
APR 17 2009

SWORN TO AND SUBSCRIBED BEFORE,  
ME, NOTARY PUBLIC, IN MY PRESENCE  
ON THIS 13 DAY OF April 2009

REGIONAL HEARING CLERK  
U.S. ENVIRONMENTAL  
PROTECTION AGENCY

Mary R. Childres  
NOTARY PUBLIC

MARY R. CHILDRES  
Notary Public, State of Ohio  
My Commission Expires Feb. 12, 2012

CERTIFICATE OF SERVICE

I, VINNIE B. WILSON HEREBY CERTIFY THAT A TRUE AND ACCURATE COPY OF ORIGINAL FOREGOING REPLY MOTION TO THE COMPLAINANT MOTION RE RESPONSES WAS SERVED BY U.S. MAIL POSTURAL SERVES, AND SENT TO THE FOLLOWING U.S EPA OFFICIALS ON THIS 13<sup>th</sup> DAY OF APRIL 2009, AND ADDRESSED TO:

CID\_ REGIONAL HEARING CLERK  
U.S. ENVIRONMENTAL PROTECTION  
AGENCY REGION (5) E-19J )  
77 WEST JACKSON BOULEVARD  
CHICAGO, ILL. 60604-3590

CID\_ PETER FELIPI  
U.S. ENVIRONMENTAL PROTECTION  
AGENCY, REGION (5) E-14J )  
OFFICE OF REGIONAL COUNSEL  
77 WEST JACKSON BOULEVARD  
CHICAGO, ILL. 60604 - 3590

Vinnie B Wilson

BY MRS. VINNIE B. WILSON  
P.O. BOX NO# 317639  
CINCINNATI, OHIO, 45231  
PHONE: 513 616-2510

RECEIVED  
APR 17 2009

REGIONAL HEARING CLERK  
U.S. ENVIRONMENTAL  
PROTECTION AGENCY